

WAC 480-04-095 Responding to requests for public records. The commission will provide the fullest assistance to requesters and the most timely possible action in response to requests for public records consistent with the intent of the Public Records Act to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential commission functions.

(1) **Tracking.** Upon receiving a request for public records, the public records officer will assign it a tracking number and log it into the commission's public records request tracking system.

(2) **Task assignment.** Unless the request clearly seeks only documents that are contained in the commission's records center, the public records officer will assign the request as a task to commission management personnel:

(a) To assess whether the request is sufficiently clear in identifying the records the requester seeks;

(b) To determine whether the commission has or may have documents that are responsive to the request;

(c) To develop a reasonable estimate of the time required to search for any responsive documents; and

(d) To provide any responsive documents to the public records officer for processing.

(3) **Initial response.** Within five business days of receiving a request for public records, the public records officer will take one or more of the following actions:

(a) Inform the requester that the commission has no public records that are responsive to the request;

(b) Make the requested records available to the requester for inspection and copying, either via a link to the document(s) on the commission's web site, or by providing a paper or electronic copy of the document(s);

(c) Acknowledge receipt of the request and provide the requester with a reasonable estimate of the date by which the commission will make the records, or an installment of the records, available for inspection and copying;

(d) Acknowledge receipt of the request, ask the requester to clarify any portion of the request that is unclear, and to the extent possible, provide a reasonable estimate of when the commission will make the requested records, or an installment of the records, available for inspection and copying if the request is not clarified; or

(e) Deny the request. If the public records officer denies the public records request in whole or in part, the public records officer will provide the requester with a written explanation of the basis for the denial. The requester may contest the denial by requesting commission review as provided in WAC 480-04-120.

(4) **Additional time to respond.** The commission may extend an estimated date by which it will make the requested records, or an installment of the records, available for inspection and copying based on the need to clarify the request, to locate and assemble the records requested, to notify third persons or agencies affected by the request, or to determine whether any of the records are exempt or otherwise protected from public disclosure, or for other good cause. The public records officer will promptly notify the requester in writing of any revised estimate and will explain the reason for the revised estimate.

(5) **Exempt or protected information.** The public records officer will review the requested records to determine whether any record, in

whole or in part, includes information that is exempt from disclosure under the Public Records Act, chapter 42.56 RCW, or protected from disclosure under RCW 80.04.095 or 81.77.210 (records that contain valuable commercial information), WAC 480-07-160 (Confidential and other restricted information), a protective order the commission enters pursuant to WAC 480-07-420 (Discovery—Protective orders), or another provision of law.

(a) *Exempt information.* The commission will redact from the public records it makes available for inspection and copying any information that is exempt from disclosure under the Public Records Act or any other applicable law. The public records officer will provide the requester with a withholding log that identifies the specific exemption applicable to each redaction and briefly explains how the exemption applies. Except as otherwise provided in this section, the public records officer will make available for inspection and copying all records and portions of records that are not exempt from public disclosure.

(b) *Information designated as confidential.* The following process will apply if the requester requests a public record that contains information that has been designated as confidential under RCW 80.04.095, 81.77.210, or WAC 480-07-160.

(i) The public records officer will inform the requester that information in one or more public records that are responsive to the request has been designated as confidential, will offer to provide a version of the document from which that information has been redacted, and will ask if the requester wants the confidential information.

(ii) If the requester informs the public records officer that the request necessarily includes information designated as confidential, the commission will follow the procedure in RCW 80.04.095 or 81.77.210, whichever is applicable, as set forth below.

(A) The public records officer will send a written notice of the request to the provider of the confidential information, as well as to any other person who has been identified as being directly affected by any public disclosure of the information, and will send a copy of the notice to the requester. The commission will send the notice electronically and, to the extent practicable, will confirm that the provider received that notice. The notice will state that the commission will disclose the requested confidential information to the requester unless within ten days after the date of the notice, the provider obtains a court order prohibiting that disclosure. The commission will issue that notice not more than two business days after receiving confirmation that the requester wants the confidential information.

(B) If the provider of the confidential information has not obtained a court order prohibiting its disclosure within ten days from the date of the commission's notice or the commission has not received notification from the requester withdrawing the request or stating that the commission can satisfy the request without disclosing confidential information, the public records officer will make the entirety of the public records that are responsive to the request available for inspection and copying, including all information that had been designated as confidential, as provided in subsection (6) of this section. The public records officer will also remove the confidential designations from the records, and the commission will maintain those records as publicly available in their entirety.

(c) *Information subject to protective order.* The following process will apply if a requester requests a public record that contains

information that is protected from public disclosure pursuant to a protective order the commission enters.

(i) The public records officer will inform the requester that information in one or more public records that are responsive to the request is protected from disclosure pursuant to a protective order and will ask whether the requester wants the protected information. If the requester agrees that the commission can satisfy the request without disclosing that information, the public records officer will provide or make available for inspection the public records that are responsive to the request and from which the information protected by the protective order has been redacted.

(ii) If the requester informs the public records officer that the request necessarily includes information that is protected by a protective order, the commission will follow one of the following processes:

(A) If the adjudication in which the commission entered the protective order has concluded, the procedure in (b)(ii) of this subsection will apply.

(B) If the adjudication has not concluded, the public records officer will notify the presiding officer in the adjudication of the request. The presiding officer will establish by notice or order the process the commission will use to receive written or oral comments or argument on the request from the requester and the parties and will enter an order determining whether the commission will make any information subject to the protective order available for inspection and copying.

(d) *Information affecting rights of others.* If the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may notify those persons of the request prior to making the records available for inspection and copying. If the public records officer elects to provide such notice, the process in (b)(ii) of this subsection shall apply.

(6) Providing responsive records.

(a) *Inspection.* Consistent with other demands on the agency's resources, the commission will promptly provide space for requesters to inspect the public records they have requested.

(b) *Copies.* Upon request, the commission will provide copies of responsive documents to the requester, subject to the requester paying any copying charges the commission assesses as provided in WAC 480-04-100. The commission will provide copies of documents in the same form in which the agency retains the record (i.e., the commission will provide paper copies of paper records and electronic copies of electronic records in the same format or program). The public records officer may, but is not required to, provide copies of records in a different form or format (e.g., making .pdf electronic copies of paper records) if such copying is technically feasible using existing commission resources and does not result in the creation of a new public record.

(7) Time to inspect or claim records. The public records officer will notify the requester in writing when the requested public records are available for inspection and copying and that the requester should make arrangements to inspect or claim any requested copies of those records. The requester must inspect the records or claim any copies within thirty days of the commission's notice. If the requester does not do so or does not make other arrangements within that thirty days, the commission may close the request.

(8) **Providing records in installments.** If a requester requests a large number of records, the public records officer may provide access to responsive records in installments. The public records officer will notify the requester in writing when each installment of the requested records is available for inspection and copying and that the requester should make arrangements to inspect or claim any requested copies of those records. The requester must inspect the records or claim any copies in each installment within thirty days of the commission's notice. If the requester does not do so or does not make other arrangements within that thirty days, the commission may stop searching for the remaining records and close the request.

(9) **Closing request.** The public records officer will close the request and notify the requester in writing of that closure under any one of the following circumstances:

(a) The commission has completed a reasonable search for the requested public records, and either:

(i) The commission has located no responsive documents; or

(ii) The commission has located responsive documents, the requester has inspected those records, and the commission has provided any requested copies of the records.

(b) The requester withdraws the request;

(c) The requester does not clarify an entirely unclear request within thirty days from the date of the public records officer's written request for clarification;

(d) The requester does not timely inspect or make arrangements to inspect or request copies of responsive records as provided in this section; or

(e) The requester does not timely submit any deposit, pay fees for an installment, or make a final payment the commission has assessed for requested copies of public records as required under WAC 480-04-100.

(10) **Subsequently discovered records.** The public records officer will promptly inform the requester if, after the commission has notified the requester that the commission has provided all available records, the commission becomes aware of additional responsive documents that existed at the time the requester made the request. The commission will make the additional documents available for inspection and copying on an expedited basis.

(11) **Log of requests.** The commission will maintain a log of the public records requests it receives, which will include:

(a) The identity of the requester if provided by the requester;

(b) The date the commission received the request;

(c) The text of the original request;

(d) A description of the responsive records that were redacted or withheld and the reasons therefor; and

(e) The date of the final disposition of the request.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-007 (Docket A-180513, General Order R-594), § 480-04-095, filed 9/19/18, effective 10/20/18; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-04-095, filed 11/24/03, effective 1/1/04. Statutory Authority: RCW 80.01.040, 80.04.160 and 81.04.160. WSR 98-02-011 (Order R-446, Docket No. A-970591), § 480-04-095, filed 12/29/97, effective 1/29/98. Statutory Authority: RCW 80.01.040. WSR 92-07-006 (Order R-368, Docket No. A-910530), § 480-04-095, filed 3/5/92, effective 4/5/92.]