

WAC 365-10-090 Disclosure procedure. (1) Within five business days of receipt of the public records request, the public disclosure officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor and, to the greatest extent possible, provide a reasonable estimate of time to respond to the request. After receiving clarification from the requestor, the public disclosure officer may then revise the estimate of when records will be available; or
- (e) Deny the request.

(2) In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public disclosure officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure pursuant to RCW 42.56.540. The notice to the affected persons will include a copy of the request.

(3) Some records are exempt from disclosure, in whole or in part. If the department believes that an entire record is exempt from disclosure and should be withheld, the public disclosure officer will identify the record, state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, the public disclosure officer will redact the exempt portions, provide the nonexempt portions, state the specific exemption and provide a brief explanation of why the portions of the record are exempt from disclosure.

(4) When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public disclosure officer will close the request and indicate to the requestor that the department has closed the request.

(5) When a response to a public records request is complex or involves a large number of records, the public disclosure officer may provide access for inspection and copying in installments pursuant to RCW 42.56.080.

(a) The requestor will be notified when an installment is ready for inspection. If, within thirty calendar days, the requestor fails to inspect the entire set of records or one or more of the installments, the public disclosure officer may close the request.

(b) When the request is for copies of public records, the public disclosure officer may require payment for each installment either prior to providing the installment or prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to ten percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost within thirty calendar days, the public disclosure officer may close the request.

(6) The process for electronic public records is the same as paper public records.

(a) When a requestor requests records in an electronic format, the public disclosure officer will provide available nonexempt electronic public records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record, or as otherwise agreed to between the requestor and the public disclosure officer.

(b) Whenever possible, the department will provide records in electronic format. If the department has only a paper copy of the record, the department, when feasible, may scan the paper record and provide the resulting electronic copy to the requestor. If the department maintains the record in electronic format, the record will be provided in the maintained electronic format unless the requestor specifically asks to receive the record in paper copies or it is otherwise not feasible to provide the record in electronic format.

(c) If a record exists on a web page, the department will respond to a request for the record by providing the link to the record on the web page.

(7) The department is not required to create a record that does not otherwise exist.

(8) If, within thirty calendar days, the requestor fails to respond to a request for clarification, and the entire request is unclear, the request will be closed. Otherwise, the public records officer will respond to those portions of the request that are clear pursuant to this section.

[Statutory Authority: Chapters 42.56 and 43.330 RCW. WSR 17-24-060, § 365-10-090, filed 12/4/17, effective 1/4/18; WSR 17-13-124, § 365-10-090, filed 6/21/17, effective 7/22/17.]