

Chapter 48-13 WAC

ACCESS TO PUBLIC RECORDS

WAC

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WAC 48-13-010 Authority and purpose. (1) The state auditor's office has the constitutional responsibility for auditing state government and all municipal corporations in Washington state. The administrative office of the state auditor's office and its staff are located at 302 Sid Snyder Ave. S.E., Room 200, Olympia, WA.

(2) The purpose of these rules is to establish the procedures the state auditor's office will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the state auditor's office and establish processes for both requestors and state auditor's office staff that are designed to best assist members of the public in obtaining such access.

[Statutory Authority: RCW 42.56.100 and 42.56.070, as amended by 2017 c 304 § 1. WSR 18-02-060, § 48-13-010, filed 12/29/17, effective 1/29/18. Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-010, filed 10/22/10, effective 11/22/10.]

WAC 48-13-020 Contact information—Public records officer. The public records officer for the state auditor's office shall be responsible for responses to requests for public records. Any person wishing to request access to public records of the state auditor's office, or seeking assistance in making such a request should contact the public records officer of the state auditor's office:

Public Records Officer
State Auditor's Office
P.O. Box 40031
Olympia, WA 98504
fax: 360-586-3105
email: publicrecords@sao.wa.gov

Information and public records are also available at the state auditor's office web site at <http://www.sao.wa.gov>. Requestors are encouraged to view the information and records available on the web site prior to contacting the records officer.

[Statutory Authority: RCW 42.56.100 and 42.56.070, as amended by 2017 c 304 § 1. WSR 18-02-060, § 48-13-020, filed 12/29/17, effective 1/29/18. Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-020, filed 10/22/10, effective 11/22/10.]

WAC 48-13-030 Availability of public records. (1) **Hours for inspection of records.** Public records are available for inspection and copying by appointment during nor-

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mal business hours of the state auditor's office, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding legal holidays. Original records must be inspected at the offices of the state auditor's office. A requestor shall not take state auditor's office records from state auditor's offices without the permission of the public records officer or designee.

(2) **Records index and records available online.** An index of public records is available for use by members of the public. The index may be accessed online at <http://www.sao.wa.gov>. A variety of records is also available on the state auditor's office web site.

(3) **Making a request for public records.**

(a) Any person wishing to inspect or obtain copies of public records of the state auditor's office should make the request in writing by letter, fax, or email addressed to the public records officer or using the office's web site form located at: <http://www.sao.wa.gov>. Records requests should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and email address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to retain photocopies or electronic versions of nonelectronic records instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records. A deposit may be required prior to the office's collection of the records requested. Pursuant to WAC 48-13-070.

[Statutory Authority: RCW 42.56.100 and 42.56.070, as amended by 2017 c 304 § 1. WSR 18-02-060, § 48-13-030, filed 12/29/17, effective 1/29/18. Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-030, filed 10/22/10, effective 11/22/10.]

WAC 48-13-040 Processing of public records requests—General. (1) **Order of response.** The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

or

(b) If copies or scanned records are requested and terms of payment are met, 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. Such clarification may be requested and provided

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by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) Clarifications.

(a) If a requestor fails to respond to a request to clarify the request and the entire request is unclear, the request may be closed without further action.

(b) If portions of the request are clear, those portions of the request will be processed.

(4) **Failure to respond.** If the state auditor's office does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(5) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records 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. The notice to the affected persons will include a copy of the request.

(6) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the state auditor's office believes that a record is exempt from disclosure and should be withheld in whole or in part, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld or redacted. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(7) Inspection of records.

(a) Consistent with other demands, the state auditor's office shall promptly provide space to inspect public records. No member of the public may remove a record from the viewing area or disassemble or alter any record. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the state auditor's office notification to him or her that the records are available for inspection. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the state auditor's office may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(8) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(9) **Providing records in installments.** When the request is for a large number of records, the public records

officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the state auditor's office has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(11) **Closing withdrawn or abandoned request.** 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 records officer will close the request and indicate to the requestor that the state auditor's office has closed the request.

(12) **Later discovered records.** If, after the state auditor's office has informed the requestor that it has provided all available records, the state auditor's office becomes aware of additional responsive records existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(13) Detailed policy can be found on office web site at <http://www.sao.wa.gov>.

[Statutory Authority: RCW 42.56.100 and 42.56.070, as amended by 2017 c 304 § 1. WSR 18-02-060, § 48-13-040, filed 12/29/17, effective 1/29/18. Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-040, filed 10/22/10, effective 11/22/10.]

WAC 48-13-050 Processing of public records requests—Electronic records. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt 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.

[Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-050, filed 10/22/10, effective 11/22/10.]

WAC 48-13-060 Exemptions. (1) The Public Records Act provides that a number of types of records are exempt from public inspection and copying. In addition, records are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some records held by state auditor's office for inspection and copying:

RCW 42.40.030, state employee whistleblower protection.

RCW 42.41.030, local government whistleblower protection.

RCW 43.09.186, toll-free efficiency hotline.

(2) The state auditor's office is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 42.56.100 and 42.56.070, as amended by 2017 c 304 § 1. WSR 18-02-060, § 48-13-060, filed 12/29/17, effective 1/29/18. Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-060, filed 10/22/10, effective 11/22/10.]

WAC 48-13-070 Costs of providing copies of public records. (1) Copying fees - Payments. The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW and received on or after July 23, 2017.

(2) Pursuant to RCW 42.56.120 (2)(b), the office is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The office does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The office will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The office will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the office may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The office may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the office are summarized in the fee schedule available on the office's web site at www.sao.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions.

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are one hundred or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office will notify the requestor of when payment is due.

(7) Payment should be made by check or money order to the state auditor's office. The office prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

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(8) The office will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

[Statutory Authority: RCW 42.56.100 and 42.56.070, as amended by 2017 c 304 § 1. WSR 18-02-060, § 48-13-070, filed 12/29/17, effective 1/29/18. Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-070, filed 10/22/10, effective 11/22/10.]

WAC 48-13-080 Review of denials of public records. (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the director of legal affairs. The petition will be affirmed or reversed within five business days following the state auditor's office receipt of the petition, or within such other time as the state auditor's office and the requestor mutually agree.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the state auditor's office denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

[Statutory Authority: RCW 42.56.070, 43.21C.120, and 43.09.281. WSR 10-22-022, § 48-13-080, filed 10/22/10, effective 11/22/10.]