

Chapter 130-10 WAC

PUBLIC RECORDS—DISCLOSURE

WAC

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WAC 130-10-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of trade and economic development with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340 and the Administrative Procedure Act, chapter 34.05 RCW, Part II.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-010, filed 11/5/90, effective 12/6/90.]

WAC 130-10-020 Definitions. (1) "Department" means the department of trade and economic development.

(2) "Disclosure" means inspection and/or copying.

(3) "Public records" include writing containing information related to the conduct of government or the performance of a governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording a form of communication or representation, including:

(a) Letters, words, pictures, sounds, or symbols; and

(b) All papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(5) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the director, to implement a statute or court decision, including where appropriate the agency's current practice, procedure, or method of action.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-020, filed 11/5/90, effective 12/6/90.]

WAC 130-10-030 Establishment of department. (1) The department of trade and economic development was created effective June 30, 1985 under the authority of chapter 43.31 RCW. The former department of commerce and economic development was abolished and the department was assigned all its reports, documents, surveys, books, records,

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files, papers, written materials, physical assets, and all its classified employees.

(2) The department was established to pursue a coordinated approach for the state's economic development policies and programs to achieve a more diversified and healthy economy.

(3) The administrative office of the department is located in Olympia. Certain programs are located in branch offices located in Seattle, Pasco, Tokyo, Japan and Taipei, Taiwan. A contract representative is located in London, England.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-030, filed 11/5/90, effective 12/6/90.]

WAC 130-10-040 Programs operated by department. The department operates the following programs:

(1) Under the office of the director:

(a) Communications

(b) Forest products program

(c) Government relations/legislative liaison

(d) International relations and protocol

(e) Policy analysis

(2) The business assistance center including:

(a) Business finance authority

(b) Employer child care program

(c) Markets for recycled materials program

(d) Minority business assistance program

(e) Small business service

(f) Washington marketplace program

(3) Business development including:

(a) Business and job retention program

(b) Business expansion division

(c) Community economic revitalization board

(d) Team Washington program

(e) Tri-cities diversification program

(4) Market and targeted industry development including:

(a) Canada program

(b) European program

(c) Film and video development

(d) Japan program

(e) Product export development division

(f) Targeted sectors program

(5) Tourism development including:

(a) Advertising and marketing

(b) Facilities development

(c) Information services

(d) Research

(e) Technical assistance

(6) Administrative services including:

(a) Budget and fiscal

(b) Contracts

(c) Human resources

- (d) Information systems
- (e) Word processing

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-040, filed 11/5/90, effective 12/6/90.]

WAC 130-10-050 Public records—Availability. (1) Public records are available for public inspection and copying except as otherwise provided by RCW 42.17.310 and these rules.

(2) Requests for any identifiable public record shall be made directly to the Director, Administrative Services Division, 101 General Administration Building, AX-13, Olympia, WA 98504.

(3) The department will at all times take the most timely possible action on requests for disclosure.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-050, filed 11/5/90, effective 12/6/90.]

WAC 130-10-060 Request for public records. (1) A request for disclosure of a public record may be oral or written. Such a request need merely identify with reasonable certainty the record sought to be disclosed.

(2) A request for disclosure shall be made during customary business hours.

(3) A request for disclosure shall not be made for commercial or political purposes.

(4) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(5) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-060, filed 11/5/90, effective 12/6/90.]

WAC 130-10-065 Fees—Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) The department shall collect the following fees to reimburse itself for actual costs incident to providing copies of public records:

(a) Most reports or publications will be free unless out of print, in which case cost of copying and mailing will be charged. Certain publications will be charged at established prices;

(b) Cost of copying of blueprints and like materials involving an extraordinary expense shall be fully reimbursed to the department;

(c) Otherwise, the department shall charge a fee of ten cents per page, plus postage if any, provided that:

(i) The first ten pages shall be free;

(ii) Additionally, any materials to be entered by the department as an exhibit in a hearing or trial shall be free.

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of reports or other public records with other state or federal

agencies, whenever doing so is in the best interest of the department or the state.

(4) The director of the department or his designee is authorized to waive any of the foregoing copying costs.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-065, filed 11/5/90, effective 12/6/90.]

WAC 130-10-070 Protection of public records. (1) No person shall knowingly alter, deface, or destroy public records of the department.

(2) Original copies of public records of the department shall not be removed from the premises where maintained.

(3) Care and safekeeping of public records furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-070, filed 11/5/90, effective 12/6/90.]

WAC 130-10-075 Records index. (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence reports, surveys, staff studies and other materials. Therefore, requests for records should generally relate to those programs listed under WAC 130-10-040.

(2) The department will make available for public disclosure all indices which may at a future time be developed for agency use.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-075, filed 11/5/90, effective 12/6/90.]

WAC 130-10-080 Interpretive and policy statements.

(1) After July 1, 1990, when administering programs requiring distribution of interpretive and policy statements, departments are obligated to create an index in accordance with RCW 34.05.220. This section is intended to implement this statute. Any interpretive and policy statements issued by the department will be sent to interested persons.

(2) The department will maintain a roster of persons interested in receiving such interpretive and policy statements. Copies of new or amended statements will be sent to persons listed on the roster.

(3) A person needing interpretive and policy statements may request copies, in writing, from the Director, Administrative Services, 101 General Administration Building, AX-13, Olympia, WA 98504.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-080, filed 11/5/90, effective 12/6/90.]

WAC 130-10-085 Disclosure procedure. (1) The director, administrative services, or his/her designee, shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the director of administrative services, or his/her designee, shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the director of administrative services shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-085, filed 11/5/90, effective 12/6/90.]

WAC 130-10-090 Exemptions to public records disclosure. Nondisclosable records are those exempted by RCW 42.17.310 including the following pertinent to department activities:

(1) Financial and commercial information and records supplied by private persons pertaining to export services.

(2) Financial and commercial information and records supplied by businesses during application for loans or program services.

(3) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(4) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(5) Personal information in files maintained for an employee of the department.

(6) The residential addresses and residential telephone numbers of employees or volunteers of the department.

(7) Preliminary drafts, notes, recommendations, and intragency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited in connection with any agency action.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-090, filed 11/5/90, effective 12/6/90.]

WAC 130-10-091 Temporary exemptions to disclosure. (1) Records relevant to a controversy to which the department is a party which would not be available to another party under the rules of pretrial discovery for cases pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(5) until the case is settled.

(2) Competitive contract procurement instruments, such as (a) requests for proposals or invitations for bids, until released to potential bidders; (b) proposals and bids received in response to competitive contract procurement instruments until either the opening of bids or, for unfunded proposals, until the contractor and the department have signed a contract.

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[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-091, filed 11/5/90, effective 12/6/90.]

WAC 130-10-095 Qualifications on nondisclosure.

(1) No exemptions under WAC 130-10-090 shall be construed to include statistical information not descriptive of identifiable clients.

(2) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-095, filed 11/5/90, effective 12/6/90.]

WAC 130-10-100 Review of denials of public records request. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review to the Director, Administrative Services, 101 General Administration Building, AX-13, Olympia, WA 98504. The written request shall point out specific objections to the written statement which accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the director of administrative services shall refer it to the office of administrative hearings. The chief administrative law judge or his designee shall consider the matter and either affirm or reverse such denial within ten business days following the request for review.

[Statutory Authority: RCW 42.17.250 through 42.17.340 and 34.05.220 through 34.05.230. WSR 90-22-065, § 130-10-100, filed 11/5/90, effective 12/6/90.]