

WAC 44-14-03006 Form of requests. There is no statutorily required format for a valid public records request. RCW 42.56.080(2). Agencies may recommend that requestors submit requests using an agency-provided form or web page. However, a person seeking records must make a "specific request" for "identifiable records" which provides "fair notice" and "sufficient clarity" that it is a records request.¹ An agency may prescribe the means of requests in its rules. RCW 42.56.040; RCW 42.56.070(1); RCW 42.56.100; RCW 34.05.220 (1)(b) (state agencies). An agency can adopt reasonable procedures requiring requests to be submitted only to designated persons² (such as the public records officer), or a specific agency address (such as a dedicated agency email address for receiving requests, or a mailing/street address of the office where the public records officer is located, or a web portal).

Agency public internet web site records - No request required. A requestor is not required to make a public records request before inspecting, downloading or copying records posted on an agency's public web site. To save resources for both agencies and requestors, agencies are strongly encouraged to post commonly requested records on their web sites. Requestors are strongly encouraged to review an agency's web site before submitting a public records request.

In-person requests. An agency must honor requests received in person during normal business hours. RCW 42.56.080(2). An agency should have its public records request form available at the office reception area so it can be provided to a "walk-in" requestor. The form should be directed to the agency's public records officer.

Mail, email and fax requests. A request can be sent to the appropriate person or address by U.S. mail. RCW 42.56.100. A request can also be made by email, fax (if an agency still uses fax), or orally (but should then be confirmed in writing; see further comment herein).

Public records requests using the agency's form or web page. An agency should have a public records request form. An agency is encouraged to make its public records request form available at its office, and on its web site. Some agencies also have online public records request forms or portals on a page on their web sites, set up to specifically receive public records requests. Agencies may recommend that requestors submit requests using an agency-provided form or web page. RCW 42.56.080(2). In this comment, requestors are strongly encouraged to use the agency's public records request form or online form or portal to make records requests, and then provide it to the designated agency person or address. Following this step begins the important communication process under the act between the requestor and the agency.³ This step also helps both the requestor and the agency, because it better enables the agency to more promptly identify the inquiry as a public records request, timely confirm its receipt with the requestor, promptly seek clarification from the requestor if needed, and otherwise begin processing the agency's response to the request under the act.

An agency request form or online form or portal should ask the requestor whether he or she seeks to inspect the records, receive a copy of them, or to inspect the records first and then consider selecting records to copy. An agency request form or online portal should recite that inspection of records is free and provide information about copying fees.

An agency request form or online form or portal should require the requestor to provide contact information so the agency can commu-

nicate with the requestor to, for example, clarify the request, inform the requestor that the records are available, or provide an explanation of an exemption. Contact information such as a name, phone number, and address or email should be provided. Requestors should provide an email address because it is an efficient means of communication and creates a written record of the communications between them and the agency. An agency should not require a requestor to provide a driver's license number, date of birth, or photo identification. This information is not necessary for the agency to contact the requestor and requiring it might intimidate some requestors.

Bot requests. An agency may deny a "bot" request that is one of multiple requests from a requestor to the agency within a twenty-four-hour period, if the agency establishes that responding to the multiple requests would cause excessive interference with other essential agency functions. RCW 42.56.080(3). A "bot" request means a records request that an agency reasonably believes was automatically generated by a computer program or script.

Oral requests. A number of agencies routinely accept oral public records requests (for example, asking to look at a building permit). Some agencies find oral requests to be the best way to provide certain kinds of records. However, for some requests such as larger or complex ones, oral requests may be allowed but are problematic.⁴ An oral request does not memorialize the exact records sought and therefore prevents a requestor or agency from later proving what was included in the request. Furthermore, as described in this comment and in WAC 44-14-04002(1), a requestor must provide the agency with fair notice that the request is for the disclosure of public records; oral requests, especially to agency staff other than the public records officer or designee, may not provide the agency with the required notice or satisfy the agency's Public Records Act procedures. Therefore, requestors are strongly encouraged to make written requests, directed to the designated agency person or address.

If an agency receives an oral request, the agency staff person authorized to receive the request such as the public records officer, should immediately reduce it to writing and then verify in writing with the requestor that it correctly memorialized the request. If the staff person is not the proper recipient, he or she should inform the person of how to contact the public records officer to receive information on submitting records requests. The public records officer serves "as a point of contact for members of the public in requesting disclosure of public records and oversees the agency's compliance with the public records disclosure requirements." RCW 42.56.580.

Prioritization of records requested. An agency may ask a requestor to prioritize the records he or she is requesting so that the agency is able to provide the most important records first. An agency is not required to ask for prioritization, and a requestor is not required to provide it.

Purpose of request. An agency cannot require the requestor to disclose the purpose of the request, apart from exceptions permitted by law. RCW 42.56.080. For example, if the request is for a list of individuals, an agency may ask the requestor if he or she intends to use the records for a commercial purpose and require the requestor to provide information about the purpose of the use of the list.⁵ An agency should specify on its request form that the agency is not authorized to provide public records consisting of a list of individuals for a commercial use. RCW 42.56.070(8).

And, an agency may seek information sufficient to allow it to determine if another statute prohibits disclosure. For example, some statutes allow an agency to disclose a record only to identified persons. In such cases, an agency is authorized to ask the requestor if he or she fits the statutory criteria for disclosure of the record.

Indemnification. An agency is not authorized to require a requestor to indemnify the agency.⁶

Notes:

¹RCW 42.56.080 (1) and (2); *Hangartner v. City of Seattle*, 151 Wn.2d 439, 447, 90 P.3d 26 (2004) ("there is no official format for a valid PDA [PRA] request."); *Wood v. Lowe*, 102 Wn. App. 872, 10 P.3d 494 (2000) (an agency's duty under the act is triggered when it receives a "specific request" for records and when the requestor states "the request with sufficient clarity to give the agency fair notice that it had received a request for public records").

²*Parmelee v. Clarke*, 148 Wn. App. 748, 201 P.3d 1022 (2008) (upholding agency's procedures requiring public records requests to be made to a designated person).

³See *Hobbs v. State*, 183 Wn. App. 925, 335 P.3d 1004 (2014) (Court of Appeals encouraged requestors to communicate with agencies about issues related to their PRA requests) and WAC 44-14-04003(3) ("Communication is usually the key to a smooth public records process for both requestors and agencies.").

⁴Oral requests make it "unnecessarily difficult" for the requestor to prove what was requested. *Beal v. City of Seattle*, 150 Wn. App. 865, 874-75, 209 P.3d 872 (2009); see also *O'Neill v. City of Shoreline*, 170 Wn.2d 138, 151, 240 P.3d 1149 (2010) (holding that an oral request for "that email" did not provide the city with sufficient notice that metadata was also being requested).

⁵*SEIU Healthcare 775W v. State et al.*, 193 Wn. App. 377, 377 P.3d 214 (2016).

⁶Op. Att'y Gen. 12 (1988). See also RCW 42.56.060 which provides: "No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter."

[Statutory Authority: RCW 42.56.570. WSR 18-06-051, § 44-14-03006, filed 3/2/18, effective 4/2/18. Statutory Authority: 2005 c 483 § 4, RCW 42.17.348. WSR 06-04-079, § 44-14-03006, filed 1/31/06, effective 3/3/06.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.