

**Chapter 178-03 WAC
PUBLIC RECORDS**

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WAC

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WAC 178-03-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington economic development finance authority with the provisions of RCW 42.56.001 through 42.56.904, dealing with public records.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-010, filed 12/4/19, effective 1/4/20.]

WAC 178-03-020 Definitions. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Washington economic development finance authority" and "authority" each refers to that state agency described in RCW 43.163.120.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-020, filed 12/4/19, effective 1/4/20.]

WAC 178-03-030 Public records available. All public records of the authority are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by chapter 42.56 RCW.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-030, filed 12/4/19, effective 1/4/20.]

WAC 178-03-040 Public records officer. The authority's public records shall be under the charge of the public records officer designated by the executive director of the authority. The person so designated shall be located in the administrative office of the authority.

The public records officer shall be responsible for implementing the authority's rules and regulations regarding release of public records, coordinating the staff of the authority in this regard and generally ensuring compliance by the staff with the public records disclosure requirements of chapter 42.56 RCW.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-040, filed 12/4/19, effective 1/4/20.]

WAC 178-03-050 Office hours. Public records shall be available for inspection and copying by appointment from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-050, filed 12/4/19, effective 1/4/20.]

WAC 178-03-060 Requests for public records. In accordance with the requirements of chapter 42.56 RCW that agencies prevent unreasonable invasion of privacy, that they protect public records from damage or disorganization, and that they prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained by members of the public upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the authority, which form shall be available at its administrative office. The form shall be presented by the public records officer, or to any member of the authority's staff if the public records officer is not available, at the administrative office of the authority during the office hours specified in WAC 178-03-050. The request shall include the following information:

(a) The name of the person requesting the record;
(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the authority's current index, an appropriate description of the record requested.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-060, filed 12/4/19, effective 1/4/20.]

WAC 178-03-070 Copying. (1) No fee shall be charged for the inspection of public records.

(2) The following copy fees and payment procedures apply to requests to the authority under chapter 42.56 RCW:

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

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

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

(iii) Through the 2017 legislative process, the public and requesters 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).

(b) The authority will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The authority will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the authority may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The authority may enter into an alternative fee agreement with a requester under RCW 42.56.120(4).

(3) The authority may agree to provide copies without fee to federal, state, local, or tribal governments, or to others, when doing so is in the best interest of the authority.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-070, filed 12/4/19, effective 1/4/20.]

WAC 178-03-080 Review of denials of public records requests.

(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. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the executive director of the authority. The executive director shall return a final decision by the end of the second business day following denial of inspection.

(3) Administrative remedies shall not be considered exhausted until the authority has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-080, filed 12/4/19, effective 1/4/20.]

WAC 178-03-090 Protection of public records. In order that public records maintained on the premises of the authority may be protected from damage or disorganization as required by RCW 42.56.100, the following procedures and practices are hereby instituted:

(1) Upon receipt of a request by a member of the public for a public record, the public records officer or the staff member in the authority's office receiving the request shall review the request for a public record and the requested public record to determine whether deletions from such record should be made or the request for such record should be denied.

(2) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected shall such public record or portion thereof be made available for inspection by a member of the public.

(3) Only the staff and members of the authority may open authority files to gain access to authority records for either authority business or to respond to a request for a public record.

(4) No public record of the authority may be taken from the premises of the authority by a member of the public.

(5) Public inspection of authority records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for authority staff members to ensure that no public record of the authority is damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public.

(6) Public records of the authority may be copied only on the copying machines at the premises of the authority unless other arrangements are authorized by the public records officer.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-090, filed 12/4/19, effective 1/4/20.]

WAC 178-03-100 Records index. (1) The authority has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since its inception:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the authority;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and reports or surveys, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the authority relating to any regulatory, supervisory, or enforcement responsibilities of the authority, whereby the authority determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or any private party.

(2) The current index promulgated by the authority shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-100, filed 12/4/19, effective 1/4/20.]

WAC 178-03-110 Exemptions list. (1) For informational purposes, the following is a list of every law, other than those listed in RCW 42.56, that the authority believes exempts or prohibits disclosure of specific information or records of the authority:

(a) The attorney-client privilege as codified at RCW 5.60.060(2).

(2) Notwithstanding the foregoing, pursuant to RCW 42.56.070(2), the failure of the authority to list any exemption herein shall not affect the efficacy of any such exemption.

[Statutory Authority: RCW 43.163.100. WSR 20-01-001, § 178-03-110, filed 12/4/19, effective 1/4/20.]