

PUBLIC RECORDS ACT POLICY

PURPOSE

The purpose of this policy is to ensure a prompt and appropriate response to all Public Records Act (“PRA”) requests.

POLICY

This Policy applies to all requests for City of Newport Beach (“City”) records pursuant to provisions of the PRA found in Sections 7920.000 *et. seq.* of the Government Code of the State of California. The PRA applies to records that are paper (hard copy) or electronic (computerized) prepared, owned, used, or retained by the City. Generally, the PRA requires disclosure of City records within ten (10) calendar days unless there is a statutory basis for non-disclosure, “unusual circumstances” justify an extension of time, or the City determines that the public interest in non-disclosure significantly outweighs the public interest in disclosure.

To facilitate a prompt and appropriate response, all PRA requests shall be processed as follows:

- A. Each Department Director shall designate one (1) staff member, and one (1) alternate staff member to serve as the PRA representatives for their department (“PRA Staff”). The City Clerk shall maintain a list of PRA Staff. Department Directors shall periodically review the PRA Staff list to ensure it contains the most current information.
- B. Any City employee, officer, or Department Director (collectively, “Employee(s)”) receiving a written PRA request for City records shall, on the day of receipt, deliver a copy of the request to their respective PRA Staff.
- C. Any Employee receiving a verbal PRA request for City records should ask the requester to confirm the request in writing and, if the requester declines, prepare a written record of the request. The Employee shall then deliver a copy of the request to their respective PRA Staff on the day of receipt.
- D. Requests for City records must sufficiently describe the records sought so that identification, location and retrieval can be accomplished. When a request to inspect/copy a City record is received, and the request does not describe a

reasonably identifiable record, Employees are responsible to assist the requesting party as reasonably necessary to identify the records they are seeking.

E. City records may be inspected at any time during regular office hours. However, as a practical matter, the City may need to locate the requested records, gather multiple records, or redact exempt information prior to inspection. As soon as possible but not more than two (2) business days after receiving a request for a City record, PRA Staff shall review the request and proceed as follows:

1. If the request seeks a City record that is easily identifiable, locatable, and disclosable (e.g., contracts, staff reports, City Council Policies, etc.), PRA Staff shall respond directly to the requester with the City record(s) sought; or
2. If the request seeks a City record that is not easily identifiable, that relates to pending or anticipated litigation, involves multiple departments, requires more than two (2) business days to compile responsive documents, is not disclosable (e.g., personnel records, legal correspondence, confidential informant information, etc.), or raises a question as to whether the record is disclosable, the request shall be forwarded to the City Clerk's PRA Staff, with a "cc" to the City Attorney's PRA Staff.

F. Within two (2) business days of receiving a request from PRA Staff, the City Clerk or his/her designee shall review the request and proceed as follows:

1. If the request seeks a City record that is retained by the City Clerk's Office the City Clerk or his/her designee shall respond directly to the requester with the City record(s) sought; or
2. If the request seeks City records retained by a department or multiple departments the City Clerk or his/her designee shall forward the request to the responsible PRA Staff within each department with directions on how to proceed. The City Clerk or his/her designee may designate one (1) department's PRA Staff as the lead department to respond to the request or may retain lead responsibility for a response within the City Clerk's Office, in which case the City Clerk's Office will gather all responsive documents and respond directly to the requester with the City records sought. If a department's PRA Staff is designated with lead responsibility the department shall gather all responsive City records from its own department and other departments, if any, and shall respond directly to the requestor with the City record(s) sought; or

3. If the request seeks City records that relate to pending or anticipated litigation, City records that may not be disclosable, or City records that raise a legal question, the City Clerk or his/her designee shall contact the City Attorney's Office for assistance.

G. The City Attorney's Office is available to assist the City Clerk's Office with any questions or issues that may arise regarding a PRA request. The City Attorney's Office shall evaluate all record requests referred by the City Clerk's Office and recommend an appropriate response.

H. All PRA requests shall be responded to within ten (10) calendar days after the request is received by the City unless "unusual circumstances", as defined in California Government Code Section 7922.535(c) or any successor statute, require additional time not exceeding fourteen (14) calendar days. The City Attorney's Office shall be copied on all written requests for additional time.

I. Once a request is made to inspect a City record and the records identified are located in the electronic communication system, the Employee having control of the electronic communication shall use his/her best efforts, to temporarily preserve the record until it is determined if the record is subject to preservation, public inspection, or production.

J. All PRA requests for electronic communications should be handled in accordance with this Policy, and departmental policy and direction. All electronic communications that constitute an identifiable City record and that are not privileged or exempt from disclosure shall be disclosed in compliance with the applicable provisions of the PRA.

K. The City is obligated to produce disclosable City records upon payment of fees covering direct costs of duplication or a statutory fee, if applicable (a fee is not applicable to a request to inspect documents). The City is not entitled to recover costs associated with searching for or retrieving the record unless specifically authorized by State law. The requestor should be referred to the Administrative Services Department for payment of the costs of duplication prior to release of the records.

L. An Employee is authorized not to disclose City records pursuant to a PRA request when:

1. The request does not reasonably describe an identifiable record after the City makes a reasonable effort to elicit additional clarifying information to help identify the record(s);
2. The request requires the City to compile data, perform research or create new records not currently in existence;
3. The request seeks records which are privileged or exempt from disclosure; or
4. The request seeks records that cannot be reasonably separated from records which are exempt from disclosure.

Any questions related to the applicability of a particular exemption shall be referred to the City Clerk's Office and, if necessary, the City Clerk's Office will refer the question to the City Attorney's Office (e.g., a request for a document regarding a City Council communication, etc.). Any legal questions regarding a request may be referred directly to the City Attorney's Office.

M. The City Clerk, with assistance from the City Attorney, will monitor compliance with this Policy and State law regulating the PRA.

History

Adopted E-1 - 1-24-1994
Amended E-1 - 4-23-2002
Amended E1 - 1-24-2012
Amended E1 - 8-8-2017
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