

DIRECTIVE

Number 37

SUBJECT:

ACCESS TO PUBLIC RECORDS

Date:
12/01/2017

BACKGROUND

The District will make its records available to the public for inspection and copying in accordance with the Public Records Act (PRA or Act), Chapter RCW 42.56. The District recognizes that the Act provides the public access to information concerning its conduct, mindful of individual privacy rights and the efficient administration of government. Promises of confidentiality cannot override the disclosure requirements of the Public Records Act. By its terms, the PRA is to be liberally construed in favor of disclosure, and exemptions are to be narrowly construed.

PURPOSES AND DEFINITIONS

Purposes of this Directive include providing information to records requestors and to District employees about the District's rules of procedure, general policy and its practices for complying with the PRA. The District has not adopted the Model Rules or the Comments to those rules that are set forth in Chapter 44-14 of the Washington Administrative Code.

The Public Records Act broadly defines "public record" to include 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.

A record that is "retained" (possessed) by the District is a public record. A record that is "used" by the District, but not "possessed" at the time of the record request can also be a public record (e.g., a technical specification for an electric generator possessed by a private contractor, used but no longer possessed by the District, or materials developed by a consultant and used by the District but not possessed by the District).

The Public Records Act further defines "writing" to mean 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,

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PURPOSES AND DEFINITIONS Continued

and other documents including existing data compilations from which information may be obtained or translated. Note also that information about an electronic record, or metadata, is also considered a public record.

Directive 64, Use of District Electronic Communication Systems, and Directive 83, Records and Information Management Policy, set forth additional definitions of what are considered District Records, and roles and responsibilities of District employees to manage District Records. Directive 83 also provides that all District Records are the exclusive property of the District and are not the property of the record's author, creator or custodian.

THE DISTRICT'S INFORMATION GOVERNANCE OFFICE

The District Information Governance (DIG) Office is supervised by the Senior Manager of the DIG Office, who reports to the General Counsel. The DIG Office coordinates all aspects of the District's Information Governance program, and selects one or more Public Records Officers. The DIG office, together with the General Counsel where appropriate, represents the District in its contacts with both the Local Records Committee and the division of Archives of the State of Washington; and performs all other duties, including, but not limited to (i) implementing policy and rules regarding the inspection, release, copying and destruction of public records; (ii) coordinating District action relating to retention, storage, indexing, inspection, release, copying and destruction of public records; and (iii) generally ensuring compliance by the District with both the public records retention and disclosure requirements of state law and this Directive.

INDICES

The District will make available for public inspection and copying all indices maintained for its use. However, the District does not maintain an index as described in RCW 42.56.070(3) because to create and maintain such an index would require an inordinate amount of District resources given the District's size and current organizational infrastructure. The creation and maintenance of such an index would be unduly burdensome to the District and interfere with District operations.

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REQUESTS TO INSPECT AND COPY

REQUESTS. Requests may include, but are not limited to, requests by the public or other public agencies, subpoenas, and requests by law enforcement. A request for public records, in whatever form that is received by any District employee constitutes a “request” and must be immediately forwarded to the Public Records Officer so that the applicable PRA timelines are met, and the District’s response can be documented.

Requests must be sent to:

<http://www.snopud.com/AboutUs/ContactUs.ashx?p=1114>

Except for routine requests for information contained in District records described in the section herein entitled **REQUESTS FOR SPECIFIC ROUTINE DEPARTMENTAL RECORDS**, all requests to inspect and/or copy District records shall be made to the District’s Public Records Officer, orally or in writing, and shall include the following information:

- (a) The name of the person requesting the records (and the address of the requestor, if a mail response is indicated);
- (b) The time of day and calendar date of the request;
- (c) The nature of the request, either by reference to a specific identifiable public record or by a description permitting sufficient identification of the record requested; and
- (d) Contact information (including telephone number and/or email address) so the District can communicate with the requestor to, for example, clarify the request, inform the requestor that the records are available, or provide an explanation of an exemption.

If the District receives an oral request, a Public Records Officer receiving it will ordinarily immediately reduce it to writing and then verify with the requestor that the writing correctly memorializes the request. This verification shall be done by regular mail or e-mail.

A Public Records Officer may assist members of the public in completing a request for records and in identifying the particular public record requested. If there is no identifiable public record responsive to a request, the Public Records Act does not require the District to create

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REQUESTS TO INSPECT AND COPY Continued

records where none exist nor to provide information not contained in District records. The standard for an “identifiable record” is whether the District employee could reasonably identify the records from the description the requestor gives.

REASONS FOR REQUESTS. The District will not distinguish among persons requesting records, nor will the District inquire into the purpose of the request except to establish that such records are not being requested in violation of this Directive or other law. For example, the Public Records Act prohibits the District from giving, selling, or providing access to lists of individuals requested for commercial purposes. The District may require a requester to submit a declaration stating that the records will not be used for commercial purposes before the information will be furnished. The District may customize access to electronic records. It may also use standardized request forms or an internet portal and may modify them from time to time.

REQUESTS FROM LAW ENFORCEMENT AUTHORITIES. A law enforcement authority may not inspect or copy District records of any person, unless such authority first provides the District with a written statement that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine, or help determine, whether the suspicion might be true. All requests received from law enforcement authorities must be forwarded to the Public Records Officer for response.

DISCLOSURE OF UTILITY CONSUMPTION. District employees shall refer requests for utility consumption records of any person to the General Counsel’s office for review, except where the request is a proper request from a law enforcement agency, a valid subpoena, or is accompanied by the customer’s written consent.

INSPECTION AND COPYING

The District may charge the actual costs of providing public records. Actual costs may include the actual costs of providing photocopies, all costs “directly incident” to shipping or mailing the records, including



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INSPECTION AND COPYING Continued

postage and delivery charges and the cost of any container or envelope used, and staff time to copy and mail the requested public records.

NO INSPECTION CHARGE. No fee is charged for inspection of public records.

COPYING COST. The District imposes a charge for providing copies of public records as follows:

Photocopies	\$0.15 per page side
Scanned paper documents	\$0.10 per page side
Electronic files	\$0.05 for every 4 files
Electronic files over 1 gigabyte	\$0.10 per gigabyte
Special sized copies ¹	Per vendor fee schedule
Electronic storage media (USB, CD etc.)	Per actual media costs

Copies will be provided upon receipt of payment by the requestor. The District may require a deposit of 10% of the estimated cost of providing copies including applicable customized service charges, if applicable.

In addition to the charge for providing copies, the District may include a customized service charge if the request would require the use of information technology expertise to prepare data compilations or customized electronic access services that is not available for other District services. The requestor will be notified in advance of the reasons for the customized service charge and an estimate of the costs.

The District reserves the right to waive copy charges for requests from other governmental entities.

TIMES FOR INSPECTION AND COPYING. Public records shall be available for public inspection and copying during the District's regular office hours, from 8 a.m. to 5 p.m., Monday through Friday, excluding District holidays.

¹Copy charges for special sized copies are assessed on a per print basis. The fees are based on the actual costs using District equipment and supplies required to reproduce the records by specific District departments, such as GIS, Maps, Records and Drafting

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INSPECTION AND COPYING Continued

PROTECTION FROM DAMAGE OR DISORGANIZATION.

When making public records available, the District shall protect such public records from damage or disorganization, and prevent excessive interference with other essential functions of the District. Copying shall be by District personnel only. No public record shall be physically removed by a member of the public from the area designated by a Public Records Officer or by the District employee having custody of the record for the public inspection of documents.

RESPONSES TO REQUESTS

The Public Records Act requires that the District make public records available promptly when requested under the Act. The Act does not specify a time limit for providing the public records requested nor does it require that a Public Records Officer explain the records provided.

Within five (5) business days of receiving a public record request, the District shall respond by either:

- (a) Providing the record;
- (b) Providing the District's internet address and link on the District's external website to the specific records requested (except if the requestor notifies the District that he or she cannot access the records through the internet);
- (c) Acknowledging that the District has received the request and providing a reasonable estimate of the time the District will require to respond to the request; or
- (d) Denying the public record request and providing an exemption(s) with a brief explanation of how the exemption applies to the record or records withheld.

Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the records requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the District may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the District need not respond to it.

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RESPONSES TO REQUESTS Continued

A District response refusing, in whole or in part, inspection or copying of any public record shall include a written explanation of the reason for denial, including, the specific exemption authorizing the withholding of the record (or portion of the record) and a brief explanation of how the exemption applies to the record withheld. A Public Records Officer shall provide such written statement within a reasonable time. When responding to a large or complex request, a Public Records Officer may provide requested records in installments, as they are processed.

A Public Records Officer may determine that it is necessary or appropriate to contact a person or entity that is the subject of a requested record to allow that person or entity an opportunity to obtain judicial protection for the record.

REVIEW OF DENIAL. Any person who objects to the denial of a request for a public record may petition for prompt review of such denial by tendering a written request or electronic mail request for review to a Public Records Officer. The written or e-mail request shall specifically refer to the written reason for denial.

Immediately after receiving a written request for review of a decision denying a public record, a Public Records Officer shall refer it to the General Counsel, or the General Counsel's designee, who shall consider the matter promptly and either affirm or reverse such denial. The request shall be returned with a final decision within five (5) business days following the original request for review or within such other time as the District and the requestor mutually agree to.

Administrative remedies shall not be considered exhausted until the General Counsel, or the General Counsel's designee, has returned the petition with a decision or until the close of the fifth business day following denial of inspection, whichever occurs first.

EXEMPTIONS

The District reserves the right to determine whether a public record, or portion thereof, is exempt from disclosure under the Act or other applicable law, and to withhold such record, or portion thereof, from

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EXEMPTIONS Continued

disclosure and/or copying. There are more than eighty (80) specific exemptions in the Act, and several hundred statutory exemptions outside the PRA. An illustrative list of the "other statute" exemptions (that is, those exemptions found outside the PRA) that the District believes potentially exempt records it holds from disclosure is attached as Exhibit "A" for informational purposes only. The District, its employees and agents are immune from liability under any cause of action for releasing a public record in a good faith attempt to comply with the PRA. RCW 42.56.060.

The exemptions in the Act that apply to District records can be found in Chapter 42.56 RCW.

REQUESTS FOR SPECIFIC ROUTINE DEPARTMENTAL RECORDS

LOCATION OF RECORDS. Certain District records can be obtained and inspected at the following departments and offices in connection with those matters listed below in this section, subject to the provisions of this Directive. Copies of such records may be made in the respective offices or departments by District staff, upon request, and subject to the provisions of this Directive.

ACCOUNT RECORDS. Records concerning the requestor's own electrical, water or conservation loan account, whether residential, commercial or industrial, may be obtained from the Customer Services Department, located in the Electric Building, 2320 California Street, Everett, Washington.

ELECTRICAL SERVICES. Records concerning electrical service, including rates, charges, connections, disconnections, construction, installations, engineering, area lighting, policies and procedures may be obtained from the Customer Services Department, located in the Electric Building, 2320 California Street, Everett, Washington.

ENERGY CONSERVATION SERVICES. Records concerning demand side resource acquisition services for commercial, industrial and residential customers including energy conservation weatherization, equipment, design, loans, grants and incentives, as well as load management and peak savings programs may be obtained from the

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Energy Services Department, located in the Electric Building, 2320 California Street, Everett, Washington.

WATER SERVICES. Records concerning water service, including rates, charges, connections, disconnections, construction, installations, engineering, policies and procedures may be obtained from the Water Operations Center, located at 3301 Old Hartford Road, Lake Stevens, Washington.

CONTRACTS/PURCHASING. Records concerning bids and quotations are available in the Contracts/Purchasing Department, located in the Operations Center, 1802 75th Street, S.W., Everett, Washington.

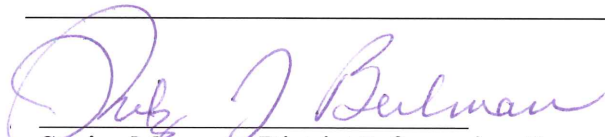
DISTRICT ACTIVITIES AND EMERGENCY INFORMATION. Records concerning District activities, events and issues, including information about emergencies and emergency operations may be obtained from the Corporate Communications Department located in the Electric Building, 2320 California Street, Everett, Washington.

AREA OFFICES. The records described above may be obtained and inspected in the District's Area or local offices, to the extent they are present in such offices.

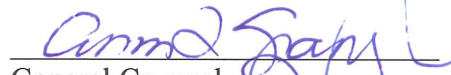
INQUIRIES

Direct all inquiries about this Directive to the District Information Governance Office.

APPROVAL



Senior Manager, District Information Governance



General Counsel



CEO/General Manager



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REQUEST TO ☐ COPY ☐ INSPECT PUBLIC DOCUMENTS

Name of Requestor and/or Company (please print)	Date
Address (Street, City, State, Zip)	Phone
E-mail address	Fax
Records Requested (Include specific dates, document title, file name, etc.) Use reverse side for additional information	

I certify that the information obtained through this request for public records will not be used for commercial purposes. I agree to pay the fees incurred by this request before copying is begun.

Signature of Requestor

<i>Fee Schedule</i>	All fees will be paid upon receipt of records. Sales tax will be added to total.
• Photocopies	\$.15 per page side
• Scanned paper documents	\$.10 per page side
• Special sized copies ²	Per vendor fee schedule
• Electronic files	\$.10 for each 4 files
• Electronic files over 1 gigabyte	\$.10 per gigabyte
• Disks & other electronic storage media	Per actual media costs

For Department Use Only

Received by (employee)	Title	Department	Date/Time
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Disposition of Request Granted ☐ Denied ☐ By _____

No. of photocopies _____ Cost of photocopies \$ _____
Hours of research _____ Other \$ _____ Total \$ _____

Comment: _____

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APPENDIX A LIST OF STATUTORY EXEMPTIONS

State law requires that public agencies such as the PUD publish a list of state and federal statutory exemptions that may exempt records from disclosure. The following list of statutory exemptions is in addition to those exemptions listed under the Public Records Act. The exemptions listed in this Appendix may or may not be applicable in certain situations and requests will need to be evaluated on a case-by-case basis to determine whether records may be withheld.

In addition to providing the statutory exemption citation, we have added a brief description of the statute, but readers are cautioned to read the entire statute to determine to what records the statute applies.

26.33.330	Adoption	Adoption records.
41.06.160	State Civil Service Law	Salary and fringe benefits survey information collected from private employers. <i>See also</i> /RCW 42.56.230(2), RCW 42.56.250(2), and RCW 42.56.250(3).
42.52.050	Ethics in Public Service	Confidential information acquired by official or employee by reason of official's or employee's official position.
49.12.240	Industrial Welfare	Individual's own personnel file. <i>See also</i> RCW 49.12.260 (investigation of criminal offense).
Ch. 19.108	Uniform Trade Secrets Act	Trade secrets. <i>See</i> RCW RCW 42.56.270(1).
19.182.070	Fair Credit Reporting Act	Files on individuals held by consumer reporting agency.
70.02.020, .900	Medical Records-Health Care Information Access and Disclosure	Health care information about a patient.
70.96A.150	Treatment for Alcoholism, Intoxication, and Drug Addiction	Registration and other drug and alcohol rehabilitation records. <i>See also</i> 42. C.F.R. pt. 2.
71.05.390, .440	Mental Illness	Fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to voluntary or involuntary recipients of mental health services at public or private agencies. All information and records obtained in course of voluntary/involuntary services at public or private agency.

Supersedes:

Directive No. 37, Access to Public Information and Records, dated 05/01/94, 10/15/99, 5/29/07, 3/1/2014
Procedure, dated 12/04/89

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APPENDIX A LIST OF STATUTORY EXEMPTIONS Continued

71.05.620	Mental Illness	Health care information from court or treatment records.
71.05.630, .640	Mental Illness	Treatment records.
51.28.070	Notice and Report of Accident-Application for Compensation	Information contained in claim files and records of injured worker.
51.36.060	Medical Aid	Medical information relevant to injury or disease which is the basis of a claim. <i>See also</i> RCW 51.04.050; 51.36.110.
7.75.050	Dispute Resolution Centers	Files of dispute resolution centers.
9.73.030	Violating Rights of Privacy	Intercepted or recorded private communications. Emergency communications, communications conveying threats or unlawful demands, communications occurring anonymously or repeatedly or at inconvenient hour, or relating to hostage holder. Communications with news gathering media.
18.04.405	Accountancy	Confidential information obtained by certified public accountant in course of professional transaction.
42.41.045	Local Government Whistleblower Protection	Information related to whistleblower complaints.
43.52.612	Operating Agencies	Financial information provided to joint operating agency for construction of nuclear generating project.
48.62.101	Local Government Insurance Transactions	Information related to funds and liability reserves; records of individual or joint self-insurance programs; information concerning the experience and performance of health and welfare benefits programs.
70.94.205	Washington Clean Air Act	Records and other information furnished to or obtained by the Department of Ecology or local air pollution control agency related to processes or production unique to the owner or operator.
78.60.230	Geothermal Resources	Records of any owner or operator filed with the Department of Natural Resources.
5.60.060(1)	Spousal Communications	Marital communications.
5.60.060(2)	Attorney-Client	Communications between attorney and client.

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APPENDIX A
LIST OF STATUTORY EXEMPTIONS
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5.60.060(5)	Public Officer-Official Confidence	Communications to public officer in official confidence.
5.60.070 & 7.07.070	Mediation	Communications between mediator and parties to mediation.
19.215.020	Disposal of Personal Information	Imposition of duty on state agencies to destroy personal financial and health information and personal identification numbers.
40.14	Preservation and Destruction of Public Records	Procedures and requirements for public records maintenance and retention.
50.13.010	Records and Information-Privacy and Confidentiality	Individual and employing unit records maintained by the Department of Employment Security.
50.13.015	Records and Information-Privacy and Confidentiality	Information provided to Department of Employment Security by another governmental agency; voluntarily provided information obtained by the Department for statistical analysis, research, or study purposes.
50.13.020	Records and Information-Privacy and Confidentiality	Information or records relating to an individual or employing unit obtained by the Department of Employment Security pursuant to the administration of Title 50 RCW.
50.13.040	Records and Information-Privacy and Confidentiality	Individual's or employing unit's own records.
50.13.050	Records and Information-Privacy and Confidentiality	Records and information deemed material to issues in appeal proceeding.
50.13.060	Records and Information-Privacy and Confidentiality	Records and information held by the Department of Employment Security required by other governmental agencies.
50.13.070	Records and Information-Privacy and Confidentiality	Records and information required by parties to administrative proceeding.
50.13.100	Records and Information-Privacy and Confidentiality	Records and information where identifying details are deleted or individual or employing unit consents to disclosure.
46.20.157	Drivers' Licenses-Identicards	Information provided to Department of Information Services by Department of Licensing; names of certified participants in Washington address confidentiality program.
46.52.130	Accidents-Reports-Abandoned Vehicles	Abstract of driving record.

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5 U.S.C. §552(a)	Privacy Act of 1974 (Freedom of Information Act)	Public information; agency rules, opinions, orders, records, and proceedings.
15 U.S.C. Ch. 41, Subch. III	Commerce and Trade- Consumer Credit Protection-Credit Reporting Agencies-Fair Credit Reporting Act	Credit reports.
18 U.S.C. Ch. 119	Crimes and Criminal Procedure- Wire and Electronic Communications Interception and Interception of Oral Communications-Electronic Communication Privacy Act	Electronic, oral, and wire communications.
26 U.S.C. §6103	Internal Revenue Code- Information and Returns	Tax returns and tax return information, including declaration of estimated tax, claim for refund, taxpayer's identity, the nature, source, or amount of taxpayer income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, tax payments, written determination, or any background file document or advance pricing agreement.
42 U.S.C. §290dd-2	Substance abuse	Confidentiality of substance abuse program client identity, diagnosis, prognosis and treatment.
42 U.S.C. §12112(d)(3)(B)	Public Health and Welfare- Equal Opportunity for Individuals with Disabilities-Employment-Americans With Disabilities Act	Information obtained during medical examination regarding the medical condition or history of an applicant for employment.
47 U.S.C. §153, §227(b)(1)	Telegraphs, Telephones, and Radio Telegraphs- Wire or Radio Communication-Telephone Consumer Protection Act of 1994, Telecommunications Act of 1996	Automated or prerecorded telephone or facsimile communications.
Pub. L. 104-191, 110 Stat. 1936 (1996)	Health Insurance Portability and Accountability Act (HIPAA); Implementing regulations; <i>see</i> implementing regulations, HIPAA Privacy and Security Rules, 45 CFR. Parts 160, 162, and 164.	Providing for protection of confidential health care information by enforcing standards for privacy and security.