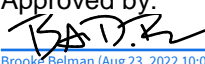


Approved by:  <u>Brooke Belman (Aug 23, 2022 10:03 PDT)</u> Chief Executive Officer	Agency Procedure	Legal
	Access to Public Records	
	Effective Date: 06/28/2018 Revision Date: 08/23/2022 Supersedes: Administrative Policies and Procedures No. 8	

Access to Public Records

1.0 Scope

- 1.1 This procedure describes Sound Transit's processes and practices for allowing the public access to identifiable, non-exempt public records in a timely manner. This procedure complies with the requirements of the Public Records Act and the agency's public records disclosure policy.
- 1.2 Nothing in this document is intended to create legal obligations or rights beyond those obligations and rights created by statute or other binding laws.

2.0 Definitions

- 2.1 Agency: Central Puget Sound Regional Transit Authority also referred to as Sound Transit, located at 401 South Jackson, Seattle, WA 98104.
- 2.2 Exemption: Any statute or regulation that allows or requires the agency to withhold information or records in response to a public records request.
- 2.3 Public record: 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 the agency regardless of physical form or characteristics including all copies of the writings. RCW 42.56.010.
- 2.4 Public Records Act: Chapter 42.56 of the Revised Code of Washington (RCW).
- 2.5 Public records request: A request made to the agency pursuant to the Public Records Act for disclosure of records. Public records requests made pursuant to other statutory rights of access to public records are not considered public records requests but may be handled under this procedure.
- 2.6 Public records officer: The designated appointed person by the agency pursuant to RCW 42.56.580.
- 2.7 Requestor: The person or entity that has made a public records request to the agency.
- 2.8 In addition to the above list, this document incorporates the definitions contained in RCW 42.56.010 and any relevant definitions contained in RCW 42.17A.005.

3.0 Procedure

- 3.1 Public records maintained by the agency are and remain the property of the agency. The agency provides access to public records in accordance with the requirements of the Public Records Act, ensures access to public records without discrimination to requestors and provides appropriate safeguards for exemptions.
- 3.2 To fully assist the public in requesting public records, the agency encourages the use of available electronic resources whenever possible to access, request and receive requested public records. requests for public records, including use of email and information accessible on the agency's website.
- 3.3 The agency makes all public records available for public inspection and copying unless the record falls within the exemptions of the Public Records Act or any other law that exempts or prohibits

disclosure of specific information or records. Exempt portions of an otherwise disclosable record are redacted before public inspection or copying.

3.4 **Public records officer responsibilities**

3.4.1 The chief executive officer (CEO) of the agency has appointed a public records officer pursuant to RCW 42.56.580 to be the person is authorized to serve as a point of contact for members of the public in requesting disclosure of public records and oversee the agency's compliance with the Public Records Act. The name and contact information of the agency's public records officer is posted on the agency's website: <https://www.soundtransit.org/help-contacts/business-information/request-records>

3.4.2 The public records officer has the following responsibilities:

3.4.2.a Oversee compliance with public disclosure laws,

3.4.2.b Serve as the primary point of contact for access to public records,

3.4.2.c Serve as the single point of contact to coordinate the agency's response when a request involves multiple record holders, is broad in scope or is otherwise complicated to fulfill,

3.4.2.d Serve as a resource to staff on topics related to disclosure of public records,

3.4.2.e Collect and analyze relevant information relating to the agency's performance of public records disclosure,

3.4.2.f Maintain the agency's public records webpage and

3.4.2.g Maintain training as required by the Public Records Act.

3.5 **Format of public records requests**

3.5.1 A public records request may be accepted in any format presented, including a verbal request (in person or via phone) or written request (in any format).

3.5.1.a To facilitate the acceptance and routing of requests, the agency encourages the public to make written public records requests using the agency's website or email whenever possible.

3.5.1.b Sound Transit provides a public records request form, which is available on the agency's website.

3.5.1.c Requests must contain an adequate description of the requested records to allow locating the requested records.

3.5.2 All requests must be directed to the public records officer. The public records officer may be contacted through the agency's public records website, via email to the public records officer's email address posted on the website, via first class mail addressed to the public records officer at the main office address or in person.

3.5.3 The requestor must provide the agency with fair notice that a public records request has been made. A requestor may not be providing fair notice when they:

3.5.3.a Do not use the agency's request form,

3.5.3.b Submit a request to an employee other than the agency's public records officer or

3.5.3.c Include a request as part of other documents provided to the agency for reasons other than making a public records request.

3.5.4 Staff who receive verbal requests should encourage the requestor to submit their request online or via email, fax or mail. Washington Courts have recognized that verbal requests for

public records can be problematic, and therefore requestors are strongly encouraged to make written requests.

- 3.5.5 When a public records request is made verbally, the public records officer should confirm the request in writing in their initial response. Unless the requestor further clarifies the request within five business days, the public records officer uses the written confirmation to define the scope of the request.
- 3.6 **Request for list of individuals.** The Public Records Act prohibits the agency from producing lists of names to a requestor who intends to use the list for commercial purposes. When a requestor requests a list of names, the requestor should explain the intended use of the list and may be asked to sign a declaration providing that the list will not be used for commercial purposes. The public records officer shall research to confirm that the request is not for commercial purposes.
- 3.7 **Responses to and fulfillment of public records requests**
- 3.7.1 All written requests for public records must be provided to the agency's public records staff. Public records staff date stamps the request on the day received.
- 3.7.2 Public records staff acknowledges receipt of public records requests in writing within five business days of receiving a request and takes one or more of the following actions:
- 3.7.2.a Request clarification or refinement of the request if needed to identify responsive record(s). Clarification of requests may be obtained in writing or verbally.
- 3.7.2.b Acknowledge the request and provide the responsive documents or provide notice that the responsive documents are available via the agency's website. The response may include a link to the record(s).
- 3.7.2.c Acknowledge the request and make the requested records available for inspection and copying during agency business hours.
- 3.7.2.d Acknowledge the request and provide a reasonable estimate of the time needed to make the records available, provided a statutory exemption does not apply.
- 3.7.2.e Acknowledge the request and indicate that the agency does not have any responsive records or that the responsive records are exempt from disclosure.
- 3.7.2.f Deny the request.
- 3.7.3 The five-business-day response period begins on the business day immediately following receipt of the request. Business days do not include weekends or agency holidays.
- 3.7.4 Public records staff coordinates responses to requests for release of public records with all appropriate departments.
- 3.7.5 All leaders are responsible for ensuring that their teams thoroughly search files and provide the records that are responsive to the public records request.
- 3.7.6 The public records and records management staff assist each department in identifying which documents are covered by the public records request and determining the time needed to gather the requested information.
- 3.7.7 Responses to public records requests become public records, subject to the Public Records Act and state retention requirements, and are maintained accordingly.
- 3.7.8 Public records staff maintain a log of public record requests received that includes the request tracking number, identity of the requestor if provided by the requestor, the date the request was received, the text of the original request, a description of the records produced in response to the request, a description of the records redacted or withheld and the reasons therefor, and the date of the final disposition of the request.

- 3.7.8.a Request tracking numbers,
 - 3.7.8.b Names and contact information of requestors,
 - 3.7.8.c Dates requests were received,
 - 3.7.8.d Due dates of requests,
 - 3.7.8.e Dates of the agency's response,
 - 3.7.8.f Brief description of requests,
 - 3.7.8.g Names of staff responsible for assembling records potentially responsive to requests,
 - 3.7.8.h Descriptions of request clarifications,
 - 3.7.8.i Descriptions of records withheld or redacted and citations for any exemptions,
 - 3.7.8.j Dates of request closures and
 - 3.7.8.k Other pertinent information related to final request dispositions.
- 3.7.9 If a public records request is made at a time when such record exists but is scheduled for destruction, the record must not be destroyed until the request is completed. Public records requests and associated logs are considered public records subject to disclosure and retention in accordance with the requirements of the Washington State Local Government Common Records Retention Schedule.
- 3.7.10 If the requested record contains information that may affect the rights of individuals, other than the subject of the requested public record, the agency may notify the individual or organization to allow them to seek relief pursuant to RCW 42.56.540. The agency may consider this law when providing an estimate of when records will be available.
- 3.7.11 The agency reviews any contracts with other parties that may contain special notice provisions. Nothing in this policy or procedure is intended to create any right to such notice.
- 3.7.12 The agency is not required to create records that do not currently exist. The Public Records Act only applies to records that exist at the time of the request. Requestors are prohibited from making standing public disclosure requests for future records.
- 3.7.13 To reduce proliferation of paper copies and in the interest of efficiently and expeditiously responding to public records requests, the public records officer and staff are encouraged to use electronic means to respond to fulfill and track public records requests.
- 3.7.14 Requestors may arrange to inspect requested records during normal business hours at a mutually convenient time. Staff makes every effort to accommodate reasonable requests for appointment times while ensuring the security of public records during inspection. Requestors may not alter in any way, rearrange or remove from folders or from agency premises any records during inspection. A requestor may flag selected pages for copying but may not alter the original records.
- 3.7.15 This procedure does not obligate staff to create electronic or other records or to convert electronic records into a format or medium in which the records are not already maintained. When asked by a requestor to convert an electronic record into a different format, staff is encouraged to do so when reasonable and technologically feasible, provided such conversion is not unduly burdensome and does not interfere with other essential agency functions. Requestors may request paper copies of electronic records subject to applicable copying charges.

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- 3.7.16 Fulfillment of requests are processed in the order that provides the timeliest response. Requests may be fulfilled in the order of receipt if easily fulfilled requests are not postponed beyond a reasonable time behind larger or more complicated requests strictly because they were received later.
- 3.7.17 When the same requestor simultaneously submits multiple, separate requests or makes one or more additional requests when previous requests are open, staff may queue the requests in the order in which they were received. Staff is not required to work on an additional request until the initial requests are completed and closed. Requestors are responsible for informing the public records officer if they want to reprioritize the fulfillment of their requests.
- 3.7.18 When a request is received that appears to be broad in nature, public records staff requests clarification from the requestor to ensure that the appropriate records are identified. Clarification focuses on information needed to identify the responsive records. Any information provided about the purpose of the request is not used as a basis for denying the request.
- 3.7.19 When appropriate, as part of the clarification process, staff may work with the requestor to find ways to narrow the request. When a requestor agrees to narrow a request, nothing prevents the requestor from later expanding the request back to its original scope.
- 3.7.20 Large or complex requests may be fulfilled through installments. If appropriate, responsive records may be provided in partial installments to provide the fullest assistance to requestors. Installments are subject to the same deadlines for claiming and inspecting records. When installments are provided and are not claimed or inspected, within 30 days from notification of availability, the agency may postpone compilation of subsequent installments or treat the request as abandoned or closed. In such cases, staff consults with the public records officer before postponing compilation of an installment.
- 3.8 **Requestor responsibility** Requestors must arrange to inspect records or claim copies of requested records within 30 calendar days following notification that responsive records are available. The 30 calendar days begins on the business day immediately following the agency's notice that the records are available and includes weekends and agency holidays. The public records officer may extend the time-period as appropriate to ensure fullest assistance to requestors. Requestors must respond to requests for clarification within 30 days of being contacted or a request will be deemed abandoned and closed.
- 3.9 **Fees.** Fees may be charged in accordance with the agency's public records disclosure policy and are posted on the agency's website.
- 3.9.1 The agency charges fees for providing responsive records totaling more than 10 pages based on the fee schedule in accordance with RCW 42.56.120. A current fee schedule is available online on the agency's website. There is no charge for inspection of records. The agency makes its facilities available to any person for inspection of public records, except when agency operations would be unreasonably disrupted or offices are closed.
- 3.9.2 Fees are waived for requests by a state or local agency.
- 3.9.3 Fees are waived when the number of responsive records totals fewer than 10 pages of records. Such costs are not waived, however, when it appears that the request has been tailored to take advantage of the waiver.
- 3.9.4 The agency reserves the right to use an outside vendor for large-scale requests and odd-sized or larger color copies and to charge the requestor for those actual costs.
- 3.9.5 Copy charges may be remitted by any and all forms accepted by the agency, which are currently cash, check or money order payable to Sound Transit, 401 South Jackson, Seattle, WA 98104. A deposit of up to 10 percent of the estimated total cost may be

required for large requests before records are copied. When requested records are provided on an installment basis, fees are collected for copies before provision of the next installment. Failure to pay for an installment puts compilation of subsequent installments on hold, and the request may be considered abandoned and closed.

3.9.6 Copied documents are not released until all costs have been paid in full.

3.10 Exemptions, withholding or redaction of records

3.10.1 Requested records may be subject to exemption from disclosure. Exempt records are withheld or redacted consistent with statutory requirements, and the withholding or redaction is documented for the requestor in accordance with the law and this procedure.

3.10.2 The presence of exempt content does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record are redacted prior to providing the document.

3.10.3 When records are withheld or redacted, the requestor is informed in writing the statutory citation authorizing the withholding of the record and a brief explanation on how the exemption applies.

3.10.4 A requestor may ask for review of a decision to withhold or redact records deemed to be exempt from disclosure by submitting a written petition to the public records officer that includes a copy of or detailed description of the agency's statement of withholding.

3.10.4.a The public records officer promptly forwards the petition for review and any relevant information to the agency's general counsel, who considers the petition and either reverses or affirms the denial within a reasonable time of receipt of the petition. The agency and the requestor may mutually agree to a longer period of time for consideration of the petition for review.

3.10.4.b If the withholding or redaction is affirmed, the decision is considered the agency's final action for purposes of judicial review.

3.10.4.c If the decision to withhold or redact is reversed, the public records officer makes the subject records available to the requestor for inspection in accordance with this procedure.

4.0 References

4.1 Resolution No. R2018-18 Public Records Disclosure Policy

4.2 Agency Policy 1016 Holiday Pay

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Final Audit Report

2022-08-23

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