



REPORT TO COUNCIL

City of Sacramento

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Consent
April 22, 2008

**Honorable Mayor and
 Members of the City Council**

Title: Administrative Policy Instruction: Public Records Act Requests

Location/Council District: Citywide

Recommendation: Adopt a **Resolution** approving the Administrative Policy Instruction for Citywide handling of Public Records Act Requests.

Contact: Shirley Concolino, City Clerk (916) 808-5442; Sandra Talbot, Assistant City Attorney (916) 808-5346.

Presenters: None.

Department: City Clerk

Division: Not Applicable

Organization No: 0700

Description/Analysis

Issue: All public requests for official City records fall under the authority of the Public Records Act and must be disclosed unless the record is specifically identified by the Act as exempt or determined to be exempt by the City Attorney.

Policy Considerations: Administrative Policy Instructions are the City's standard format for Citywide Process and Procedure communication.

Environmental Considerations:

California Environmental Quality Act (CEQA):

Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Sustainability Considerations: none.

Commission/Committee Action: None.

Rationale for Recommendation: The Public Records Act safeguards the accountability of government to the public and this City Administrative Policy Instruction will support consistent staff handling of requests for information by the public.

Financial Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Shirley Concolino, City Clerk

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RESOLUTION NO.

Adopted by the Sacramento City Council

ADMINISTRATIVE POLICY INSTRUCTION: PUBLIC ACT REQUESTS

BACKGROUND

- A. On November 1, 1988 Resolution 88-939 establishing the policy and procedure for disclosure of public records was adopted and Resolution 75-606 was repealed.
- B. A current standard is needed to appropriately handle requests for public records under the requirements of the Public Records Act contained in Government Code Sections 6250 et seq.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Administrative Policy Instruction establishing a citywide Public Records Act Request policy describing how requests for public records are handled (Exhibit A) is approved.
- Section 2. This Resolution supersedes Resolution 88-939.
- Section 3. Future changes may be made directly to the Administrative Policy Instruction with approval by the City Manager, City Attorney and City Clerk.

Table of Contents:

- Exhibit A Administrative Policy Instruction.

CITY OF SACRAMENTO
ADMINISTRATIVE POLICY INSTRUCTIONS

Topic: Public Record Act Requests Effective Date: 2-1-08
From: City Clerk's Office Supersedes: New
To: Department/Division Managers Section: API # __

Shirley Concolino
City Clerk

Approved:

Eileen Teichert
City Attorney

Ray Kerridge
City Manager

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1. Scope

This Administrative Policy Instruction (API) establishes a citywide Public Records Act Request policy which describes how requests for public records are handled.

2. Purpose

The purpose of this API is to provide all City employees with the information needed to appropriately handle requests for public records under the requirements of the Public Records Act (Act). The Act is contained in Government Code Sections 6250 et seq.

3. Policy

Application:

All public requests for official City records fall under the authority of the Public Records Act and must be disclosed unless the record is specifically identified by the Act as exempt or determined to be exempt by the City Attorney.

Requests to Inspect Records

Public records are open for inspection during regular business hours. Staff will make all efforts to make routine records available at the time of a request. Non-routine records requests must be responded to promptly, but not later than 10 days after the request, and under unusual circumstances, extended for 14 additional days. The City may not charge an inspection fee. Requestors are not required to purchase copies after inspection.

Requests for Copies

Requested copies must be made available as soon as reasonably possible. The City may charge a copying fee as established in the City's Master Fee Schedule.

Responsible Department

Requests for specific records shall be directed to and received by the department maintaining that record. Requests that include records maintained by more than one department shall be directed to the City's Records Manager who will review and disposition the request to the appropriate department(s) for response.

For verbal requests, or for written requests that do not identify a specific record, staff shall make all reasonable efforts to assist the requestor in determining what records contain the information the requestor is seeking.

If the requesting party self-identifies as a reporter, or is a known reporter, the request and any documentation provided to the reporter, shall be shared with the responsible department's Public Information Officer (PIO) and/or the City's PIO.

4. Definitions

Public Records Act

The Public Records Act is the California law that provides for the public's the right to inspect and copy most records retained by the City in the course of its business. The purpose of the Act is to safeguard the accountability of government to the public.

Public Record

Generally, any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City regardless of the physical form or characteristics. A "writing" is not limited to written or printed documents, but encompasses a broad range of recorded communications including computer data.

Custodian of Record

The department who has been identified as the holder of the official record.

5. Documentation of Requests

Requests for records may be received verbally or in writing. For verbal requests where the record is not readily available or cannot be produced immediately, staff shall record the request in writing. This documentation must be maintained by the department as prescribed in the City's Records Retention Schedule. Or, if the request meets the centralized documentation rule, departments shall use the documentation process established by the City Clerk.

6. In General

Exemptions from Disclosure

The Act exempts particular records from disclosure. The Act also includes a balancing test to determine whether a document is exempt. Under this test, the City must determine on a case-by-case basis whether the public interest in disclosure is outweighed by the public interest in nondisclosure.

Examples of records that may be exempt from disclosure include but are not limited to: attorney-client privileged communications; attorney work product; closed session meeting materials; pending litigation records; eminent domain proceedings; employee personnel and medical files; petition signatures; social security numbers; worker's compensation information; and police investigatory records.

If there is any question concerning whether a record is exempt or should be exempt from disclosure, the department head or Records Manager shall seek the advice of the City Attorney's Office. The City Attorney's Office will make the sole determination as to what records may be exempt from disclosure.

Redaction – Partial Disclosure

If a record contains both exempt and nonexempt information, the nonexempt information that can be reasonably segregated from the exempt information must be disclosed. This can be accomplished by redaction. Redaction is a method of concealing or "covering" certain information so that only the public information is visible to the requestor. The City Attorney's Office will make the sole determination as to what information may be redacted.

Response Time

The Act requires that records requests be responded to promptly, but no later than 10 days after receipt of the request. The City may invoke up to a 14 days extension to the response time under unusual circumstances. Unusual circumstances include the need to: search or collect records from field facilities; review voluminous records; consult with another agency; compile data; or establish a program to extract data.

The response must indicate if records will be made available, and if not, why, i.e. records do not exist or are exempt. If the response is that unusual circumstances require an extension, the response must be in writing as state what unusual circumstances exist.

For routine records that are readily available, departments will make the records available at the time of the request, or as soon as reasonably possible, after the request was received.

Response Time Exception - Documents Filed Pursuant to the Political Reform Act

Any report or statement filed pursuant to the Political Reform Act, such as Form 700—Statement of Economic Interest, must be made available for inspection or duplication during regular business hours, no later than the second business day following the day in which the request is made. The City Clerk's Office is the custodian of record for documents filed under the Political Reform Act.

Cost

Only the copying fee, as designated in the City's Master Fee Schedule, may be charged for duplicating records. The copying fee includes only the direct duplication costs, not including labor costs to gather records which are not recoverable. Copying fees collected shall be recorded as a cash transaction and deposited as revenue.

Notification

If the requesting party self-identifies as a reporter, or is a known reporter, the request and any documentation provided to the reporter, shall be shared with the responsible Department's PIO and/or the City's Public Information Officer.

If a request involves records of a high public or media interest, the responding party should exercise good judgment in considering notification of the City Attorney, City Clerk, City PIO and/or any other individual or department that would have an interest in knowing that documents were requested.

7. Procedure for Handing Requests

The review process, by either the department or Records Manager:

1. Notify your department's PIO and/or the City's PIO if the request is from a reporter.
2. Notify the City Attorney's Office if the request is non-routine and/or has potential legal issues.
3. Determine when the response is due.
 - a. Political Reform Act requests—copies within two business days,
 - b. Public Records Act requests—respond within 10 calendar days.)
4. Acknowledge receipt of the request noting the date received by the City.
5. Clarify the request if unclear.
6. Determine where the records reside, i.e. department or departments in which the potentially responsive records are held.
7. If the records reside in multiple departments send the request to the Records Manager as promptly as possible.
8. If the records are located solely in your department, determine who should respond to the request in accordance with your department head's directive.

9. Determine the location of the record(s), e.g. in office, off-site storage, City archives, computer network or hard drives.
10. Determine if the records contain any information that is exempt from disclosure, e.g. personnel, medical, SSN, litigation, attorney-client privilege, investigatory records, etc.
11. Contact your department head and/or the Records Manager if you have questions regarding whether all or part of the record is exempt from disclosure. (Your department head and/or the Records Manager will consult the City Attorney's Office.)
12. Restrict or redact records after consultation with the City Attorney's Office.
13. Notify the requestor in writing of the following, as applicable:
 - a. Non-exempt records are available for inspection.
 - b. Non-exempt records may be copied for a fee.
 - c. Non-exempt records do not exist.
 - d. Unusual circumstances warrant an extension of time to respond.
 - e. Records exist but are exempt for pursuant to an exemption for which the City Attorney's office will provide you with a citation.