

Fort Worden Lifelong Learning Center Public Development Authority
Public Records Act – Administrative Policy
May 26, 2021

Section 1. Authority and purpose.

(1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt public records in accordance with published rules. The Public Records Act (the “Act”) 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 the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the Fort Worden Public Development Authority (FWPDA) will be guided by the provisions of the Act describing its purposes and interpretation.

(3) The purpose of these rules is to provide the procedures the FWPDA will follow to provide full and timely access to public records, mindful of the need to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, as required by RCW 42.56.100. These rules provide information to persons wishing to access public records of the FWPDA.

Section 2. Contact information—Public Records Officer.

(1) The FWPDA’s office is located at 200 Battery Way, Building 200, Port Townsend, WA, 98368

(2) The Executive Coordinator is designated as the FWPDA’s Public Records Officer. Any person wishing to request access to public records of the FWPDA or seeking assistance in making such a request should contact the Public Records Officer in one of the following ways:

- By Email: publicrecords@fortworden.org
 - By Mail: FWPDA Public Records Officer, 200 Battery Way, Building 200, Port Townsend, WA 98368
 - In person: FWPDA Public Records Officer, 200 Battery Way, Building 200, Port Townsend, WA 98368
 - By Phone: 360-344-4400, ask for Public Records Officer
- Information is also available at the FWPDA’s website at <https://fortworden.org/category/pda-documents/>

(3) The Public Records Officer will oversee compliance with the Act and may also work in collaboration with other staff and board members to process requests. Therefore, these rules will refer to the Public Records Officer “or designee” where appropriate.

Section 3. Availability of public records.

(1) **Hours for in-person inspection of records.** Records may be available electronically or in hard copy form. Hard copy public records are generally available for inspection and copying during normal administrative business hours of the FWPDA: Monday through Friday, 9:00 a.m. to 5:00 p.m. (excluding legal holidays and subject to office closures due to staffing requirements and emergencies). To assure protection of public records, FWPDA staff may require that inspection and/or copying of records responsive to a specific request occur at such dates and times as mutually agreed upon between the Public Records Officer and the requestor. A requestor shall not take FWPDA records from FWPDA offices without permission of the Public Records Officer.

(2) **Electronic access to records.** For those seeking responsive records in electronic format, the FWPDA may provide access to public records by transmitting the responsive record via e-mail, providing links to FWPDA's web site if it hosts an electronic copy of desired records, or providing records on a USB flash drive. The Public Records Officer will work with the requester to determine the most appropriate method for providing electronic copies of responsive records.

(3) **Organization of records.** The FWPDA will maintain its records in a reasonably organized manner. The FWPDA will take reasonable actions to protect records from damage and disorganization.

(4) **Records Index.** RCW 42.56.070(4) provides that an agency need not maintain a public records index if doing so would be unduly burdensome, but the agency must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome or would interfere with agency operations. By Resolution 15-05, adopted on April 29th, 2015, the FWPDA Board of Directors established that the FWPDA is not required to maintain an all-inclusive index of public records due to the undue burden of maintaining such an index.

Section 4. Making a request for public records.

(1) Any person wishing to inspect or copy public records of the FWPDA should make the request in one of the ways described in Section 2(2) and shall include the following information:

- (a) Name of requestor;
- (b) Mailing address of requestor;
- (c) Other contact information, including telephone number and email address;
- (d) Identification of the public records adequate for the Public Records Officer or designee to locate the records; and
- (e) The date and time of day of the request. If the request is mailed, the date the mail is received will generally be the date in which the initial request response window begins.
- (f) Use the terms "public records" or "Public Records Act"

(2) If the requestor wishes to have hard copies of the records made instead of receiving electronic copies or inspecting them on-site, the requestor must indicate this.

(3) **Form.** An optional public records request form is available for use by requestors at the FWPDA administrative offices or via the website at www.fortworden.org. While written submission of a records request via email or mail is encouraged, the Public Records Officer will accept oral requests that contain the above information via telephone, voice mail, or face to face. If the Public Records Officer accepts such a request, the officer shall confirm receipt of the information and the substance of the request in writing.

(4) **Identification and scope of records requests.** A requestor must request an "identifiable record" or "class of records" before the FWPDA must search for records. An "identifiable record" is one that is existing at the time of the request and which FWPDA staff can reasonably locate. The Act does not allow a requestor to make "future" or "standing" (ongoing) requests for records not in existence. RCW 42.56.520 allows Public Records Officers to request clarification from requestors in two ways, which may be used with vague or complex requests: 1) An interpretation of the request can be provided with the opportunity for the requestor to provide correction, or 2) more information can be asked for about any portion of a request that may be unclear. An "identifiable record" is not a request for "information" in general. For example, asking "what policies" the FWPDA has for space rental inquiries is merely a request for information. A request to inspect or copy the FWPDA's policies and procedures for space rental inquiries would be a request for an identifiable record.

(5) **Reasonable notice of submission.** The Public Records Act requires that an agency be provided reasonable notice that a public records request has been submitted. To do so, a requestor must request records as set forth in this policy. Public records requests may not be buried in other communications or otherwise delivered in an unapproved or roundabout manner. Failure to provide reasonable notice of submission may result in delayed production of records. Unless otherwise set forth in this policy, the Public Records Officer is the official portal for receipt of all records requests made to the FWPDA.

Section 5. Processing of public records requests--general.

(1) **Providing "fullest assistance."** Mindful of the requirements of RCW 42.56.100, to the extent reasonably possible, the Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of a request, the Public Records Officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) Provide a link to the FWPDA's website if it hosts requested records;
- (c) If copies are requested and payment of a deposit for the copies, if any,

is made or terms of payment are agreed upon, send the copies to the requestor;

(d) Acknowledge the request and provide a reasonable estimate of when records will be available; or

(e) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor (see Section 4(4)). Per 42.56.520(d), in an attempt to clarify a request, the FWPDA shall provide a reasonable estimate of the time it will take to respond if a request is not clarified; or

(f) Deny the request.

(3) Consequences of failure to respond. If the FWPDA does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the Public Records Officer to determine the reason for the failure to respond.

(4) Reasonable estimate of time to fully respond. If not able to fulfill the request within the five-business-day period, the Public Records Officer will provide a reasonable estimate of the time it will take to either fully respond to the request or produce the first installment of records. Timing updates will be provided with each installment. The Public Records Officer should briefly explain the basis for the time estimated to respond, noting relevant reasons, such as the factors listed in Section 5(5). Should an extension of time be necessary, the Public Records Officer will provide a revised estimate and identify circumstances related to the extension.

(5) Prevention of excessive interference with essential FWPDA functions. Public records requests are an essential function of the Public Records Officer. However, the FWPDA also must protect against excessive interference with its other essential functions. Due to the small size of the FWPDA administrative team and the other executive and governance support responsibilities assigned to the Executive Coordinator who also serves as the Public Records Officer, the following criteria will be used to manage the records request queue and establish expectations for when records can be released:

(a) the scope of the search for records;

(b) the number of records responsive to any given request;

(c) the number and size of other records requests in the queue;

(d) the amount of processing and review anticipated or required for the request or other requests in the queue;

(e) how much consultation with the FWPDA's attorney is needed regarding possible redaction or withholding of information exempted by law from disclosure;

(f) the time needed for third party review or requester action; and

(g) the current volume of other FWPDA work, as it affects the amount of staff time that can be devoted to requests.

The Executive Director is authorized to set a maximum number of hours per month for the Public Records Officer (and related staff) to respond to public records requests if the

Executive Director determines it necessary in order to manage and prevent excessive interference with other essential functions of the FWPDA.

(6) **Managing the request queue.** Responding to a records request is not always a sequential process. The Public Records Officer will manage the active queue by moving between requests based on circumstances that may include, but are not limited to the following:

- (a) a request is waiting for records to be retrieved;
- (b) a request is waiting for the requester to respond to a request for clarification;
- (c) a request is waiting for legal review of records to determine if they meet the definition of a public record or the applicability of exemptions;
- (d) a request is waiting for the expiration of the time allowed a third party to obtain an order from a court enjoining release of records;
- (e) a request is waiting for resolution of a legal action filed by a third party to enjoin release of records; or
- (f) a request is waiting for consideration of a petition to review denial of access

(7) **Searching for records.** The FWPDA must conduct an objectively reasonable search for responsive records. The Public Records Officer will determine where responsive records are likely to be located and involve other staff and board members, as needed, to engage in the search for records. After potentially responsive records are located, the Public Records Officer should take reasonable steps to reduce the number of records assembled to those that are in fact responsive. If the FWPDA does not locate any responsive documents, the Public Records Officer will so indicate to the requestor and will explain in at least general terms the places searched and/or the search terms employed.

(8) **Installments.** The FWPDA may provide records in installments over time if the Public Records Officer reasonably determines that it would be practical to provide the records in that way. The Public Records Officer will inform the requester in advance that the records may be produced in installments, and that, if applicable, the copy costs for each installment must be paid before the next installment will be produced. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) **Records exempt from disclosure.** The Public Records Act and other statutes provide that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. The FWPDA will maintain on its website a current list of disclosure prohibitions/exemptions, other than those listed in the Act, which exempt or prohibit disclosure of specific information or public records.

If the FWPDA determines that a record is exempt from disclosure and should be withheld, the Public Records Officer will provide a log that states the specific

exemption(s) and provides a brief explanation of why the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer or designee will redact the exempt portions, provide the non-exempt portions, and use a log to indicate to the requestor why portions of the record are being redacted.

(10) **Court protection of records (Third-party notice).** If the requested records contain information that may affect rights of a person who is named in the record or to whom the record specifically pertains and that may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to such persons. Generally, 14-days' notice will be given in order to make it possible for the 3rd party to contact the requestor and ask them to revise the request or, if necessary, allow affected individuals to seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request. Nothing in this section requires the FWPDA to provide such third-party notice, unless otherwise required by law.

The Public Records Act provides that an agency's officials or employees are not liable for loss or damage to any person, including a third party, based on release of a FWPDA record if the employee or official acted in good faith in attempting to comply with the PRA.

Section 6. In-person inspection of records.

(1) Consistent with other demands, the FWPDA shall promptly provide space for in-person inspection of public records if requested and when records are ready. No member of the public may remove a document from the viewing area or disassemble or alter any document.

(2) The requestor must claim or review the assembled records within thirty days of the FWPDA's notification that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that they should contact the agency to arrange to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the FWPDA may close the request and re-file the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(3) After inspection is complete, the Public Records Officer or designee shall make the requested copies or arrange for copying.

(4) When all requested copies are provided (other than records exempt from disclosure), the public records officer or designee will indicate that the FWPDA has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

(5) When the requestor either withdraws the request or fails to fulfill their

obligations to inspect the records or pay the deposit or final payment for the requested copies, the Public Records Officer will close the request and indicate to the requestor that the FWPDA has closed the request.

Section 7. Fulfillment of requests. Along with or immediately after production of the final installment of records, a letter or email acknowledging fulfillment shall be sent to the requestor. The communication should refer to the request and any agreed upon clarifications and inform the requester that the FWPDA believes the records request has been fulfilled and will take no further action. If the requester contacts the FWPDA subsequent to the fulfillment communication, they will be required to submit a new Public Records Request.

Section 8. Later discovered documents. If, after the FWPDA has informed the requestor that it has provided all available records, the Public Records Officer becomes aware of additional responsive documents existing at the time of the request, the officer will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Section 9. Costs of providing copies of public records. There is no fee for inspecting public records in person. An agency can charge for copies of public records if it adopts a fee schedule pursuant to RCW 42.56.070(7). The FWPDA reserves the right to adopt a fee schedule in accordance with RCW 42.56.070(7) and will append the schedule to this policy and post to its website.

Section 10. Review of denials of public records.

(1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The Public Records Officer shall promptly provide the petition and any other relevant information to the FWPDA's attorney or designee to conduct the review. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the FWPDA's receipt of the petition, or within such other time to which the FWPDA and the requestor mutually agree.

(3) **Judicial review.** Any person may obtain court review of denials of public records request pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.