

# ASSOCIATION OF WASHINGTON CITIES

## Public Disclosure Policy

It is the policy of the Association of Washington Cities (AWC) to release records of the organization in compliance with the Public Records Act of the State of Washington, and any other applicable provision of federal or state law.

### I. Purpose

AWC, a private non-profit 501(c)(4) corporation, is determined by the courts to be subject to and required by the Public Records Act (PRA), Chapter 42.56 RCW, to adopt and enforce reasonable rules and regulations to provide full public access to public records. This policy complies with the requirements of the PRA by providing straight-forward, predictable practices for responding to and fulfilling requests for disclosure of public records in a manner consistent with the PRA.

This policy includes both statutory requirements and best practices. Except where these provisions are mandated by statute, any duties identified in this policy are discretionary and advisory only and shall not impose any affirmative duty on AWC. AWC reserves the right to apply and interpret this policy and to revise or change the policy at any time.

This policy shall be available at the AWC offices in Olympia, WA, and posted on the AWC website.

### II. Definitions

#### A. **Incorporation of Definitions**

This policy incorporates the definitions in RCW 42.56.010

#### B. **Additional Definitions**

1. "Act" or "PRA" refers to the Public Records Act, at Chapter 42.56 RCW.
2. "AWC" or "organization" means Association of Washington Cities.
3. "Exemption" refers to any statute that allows or requires AWC to withhold information or records in response to a PRA request.
4. "Policy" refers to this policy for the Public Records Act.
5. "Public Record" means 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 AWC regardless of physical form or characteristics. Records created or received by employees using privately owned devices only qualify as public records if the employee was acting within the scope of employment when the record was created or received, or when the record is subsequently used for AWC purpose.
6. The "Public Records Officer" is identified, and their duties are assigned in Section III.A.1 of this Policy.
7. "Public Record Request" means a request for Public Records made to AWC pursuant to the Public Records Act.
8. "Requestor" means the person or entity that has made a Records Request to AWC.
9. "Withholding" or "Withheld" means non-disclosure of exempt records, either all or in part.
10. "BOT" means automatically generated requests received from the same requestor within a 24-hour period.
11. "Third Party Notification" is the notice informing third parties named in a responsive record(s) of the date the record(s) will be released and providing them time to seek an injunction to prevent AWC from disclosing the record(s).

### C. Organization of AWC

The Association of Washington Cities is located at:

1076 Franklin Street SE  
Olympia, WA 98501

All Records Requests shall be inspected at the above-named location. Office hours are 8:00 am to 5:00 pm, Monday through Friday, except for legal and declared holidays.

AWC is comprised of four separate legal entities:

1. Association of Washington Cities, a private, non-profit, 501(c)(4) corporation;
2. Center for Quality Communities, a private, non-profit, 501(c)(3) corporation;
3. AWC Employee Benefit Trust, a 501©(9) Voluntary Employees' Beneficiary Association (VEBA) and the Employee Benefit Trust Health Care Program within the Trust, authorized by RCW 49.62, and formed by Interlocal Agreement; and
4. AWC Risk Management Service Agency, a governmental risk pool authorized by RCW 49.62, and formed by Interlocal Agreement.

Each of the four separate legal entities are governed by separate boards of directors. If subject to the provisions of RCW 42.56, each entity has a separate Public Disclosure Policy.

**This Policy applies to Association of Washington Cities only.**

### III. Guidelines

#### A. Public Records Request

##### 1. Public Records Officer

AWC's Public Records Officer serves as the Public Records Officer for the Association of Washington Cities, the Center for Quality Communities, and by contract for the AWC Risk Management Service Agency, and the AWC Employee Benefit Trust.

All requests must be directed to the Public Records Officer. The Public Records Officer may be contacted in person at the AWC offices, via first class mail addressed to the Public Records Officer at the AWC offices, via email to the Public Records Officer, or through the AWC's Public Records Center located on the AWC website. The name and contact information (including email address) for the individual serving as the Public Records Officer is posted on the AWC website.

The Public Records Officer, with approval of the Records Supervisor, may delegate any of its responsibilities to AWC staff, with the Deputy CEO/COO being ultimately responsible for overseeing compliance with the Act and this Policy.

The Public Records Officer will coordinate with another staff member to carry out the Public Records Officer's duties when the Public Records Officer is not available due to vacation, sick leave, or otherwise.

The Public Records Officer will:

- a. Be responsible for implementing AWC's process regarding disclosure of public records;
- b. Serve as principle contact point with any Requestor who has made a records request to AWC, unless the Public Records Officer has delegated these responsibilities to a specific staff member;
- c. Coordinate AWC staff to ensure the compliance with public records disclosure requirements;

- d. Provide input to Records Supervisor who in coordination with the Deputy CEO/COO and Chief Executive Officer and in consultation with legal counsel, makes the final decision regarding disclosure and application of exemptions after considering the Public Records Officer's input;
- e. Maintain AWC's indices, if any;
- f. Ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of AWC; and
- g. Remain current with appropriate training as required for public records officers under Washington state law.

2. How to Make a PRA Request

Public Records may be inspected or copies of Public Records may be obtained by the public at AWC's office by following these procedures:

- a. All requests must be directed to the Public Records Officer. AWC encourages that all requests be made in writing using the AWC's Public Records Center which is available on AWC's website. Requests may be mailed, scanned and emailed, or delivered in person to AWC's office, directed to the attention of the Public Records Officer. In-person requests must be made during regular office hours. The public records request should include the following information:
  - i. An indication that the request is being made for access to a public record pursuant to the Public Records Act;
  - ii. The requestor's name, mailing address, and convenient means of contact, such as email address, phone number, fax, etc.;
  - iii. The date of the request;
  - iv. A thorough description of the public records requested that includes sufficient details to allow AWC to identify responsive records;
  - v. The date range of the requested records; and
  - vi. The method of delivery of records. Unless otherwise communicated, records will be made available on AWC's Public Records Center. The requestor will be notified that records are available by email or their preferred method of contact.

b. Verbal Requests

The Washington Courts have recognized that oral requests for public records can be problematic and therefore requestors are strongly encouraged to make written requests using AWC's Public Records Center. When a Records Request is made orally, the Public Records Officer will confirm his or her understanding of the records requested as part of the initial written response acknowledging receipt of the request. Unless the requestor further clarifies the request within five (5) business days, AWC will use the written confirmation to define the scope of the request. Any oral request must be made during the AWC's normal business hours to the Public Records Officer or other live person and cannot be made through voicemail.

c. Reasonable Notice

It is the requestor's obligation to provide AWC with fair notice that a public records request has been made. When a requestor does not use AWC's Public Records Center, or when a requestor submits a request to an employee other than AWC's Public Records Officer, or includes a request as part of other documents provided to AWC for reasons other than making a PRA request, the requestor may not be providing fair notice to AWC. To ensure fair notice is provided, requestors are encouraged to use the Public Records Center on AWC's website, make the request through the Public Records Officer and/or take steps to clearly identify their request. For example, when a request is submitted with other documents not related to disclosure of public records, it shall be the responsibility of the requestor to provide reasonable notice that a public records request is included.

d. Identifiable Records

A PRA request must be for an "identifiable record" or class of "identifiable records." The requestor

must provide sufficient detail to allow AWC to reasonably locate the requested record. A request for "all" or "substantially all" the organization's records is not a valid request for identifiable records. When a requestor uses the phrase "all records relating to," the Public Records Officer will interpret the request to be for records which directly and fairly address the topic, and not for all the records containing keywords that may be related to or used within the request.

e. Employment Records

If the request is for employment records and the requestor is seeking his or her own records, AWC will ask the requestor whether the request is being made pursuant to the PRA, or some other right within the law or legal contract to such records. If the requestor elects to pursue the records pursuant to the Act, the request shall be handled per this policy. If the requestor elects to pursue the records pursuant to a separate right in law or contract, then the request will be handled pursuant to that law or contract.

**B. Responding to Public Records Requests**

1. Initial Five-Day Response

AWC will promptly respond to PRA requests. Within five (5) business days of receiving a Records Request, AWC must acknowledge receipt of the request in writing and take one or more of the following actions:

- a. Provide notice when any responsive records are currently available on the AWC website, or make the records available to the requestor;
- b. Acknowledge receipt of the request, request clarification if all or a part of the request is unclear; and provide a reasonable estimate of when records will be made available;
- c. Deny the request.

2. Reasonable Estimate of Time

When providing a reasonable estimate of time required to fulfill a records request or provide and installment of records, the Public Records Officer may consider the time required to refine or clarify a request, locate or retrieve requested records, redact or withhold exempt records and create associated documentation, consult with appropriate staff regarding potential exemptions, and notify third parties or others of requests for information of a sensitive nature consistent with the provisions of Chapter 42.56.540 RCW, or other factors that affect the time needed to respond to the request.

3. Clarification

When receiving a request that appears to be broad or vague in nature, or is for any reason unclear, the Public Records Officer may request clarification from the requestor to ensure that the appropriate records are identified and to determine if the request can be narrowed or clarified. Clarification shall focus on information needed to identify responsive records.

While requestors usually cannot be required to explain why they are seeking records, the PRA does encourage communication between AWC and the requestor. AWC is committed to assisting the requestor in obtaining the records that they are looking for without also producing a large volume of records that the requestor does not really want. To achieve this goal, for certain requests, the Public Records Officer will attempt to understand why, or what records the requestor is seeking. But except as provided in section 11I.B.4.B, AWC will not use the requestor's reasons for seeking records as a basis for denying the request.

4. Reasons for Denial of a Request

A request is denied when there are no responsive records, or if it is determined to be a BOT request,

or if it determined to be a list of names requested for commercial purposes or if the requested records are exempt from disclosure under the PRA or other law which exempts or prohibits disclosure.

- a. BOT Requests. Automatically generated (bot) requests received from the same requestor within a 24-hour period may be denied if responding would cause excessive interference with other essential functions of AWC.
- b. Requests for List of Names. The PRA prohibits AWC 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 or affidavit providing the list will not be used for commercial purposes. This exception is very narrow and only applies to actual lists of people's names.

5. Installments

When a records request is for a large volume of records, AWC may, at its discretion, elect to provide records on an installment basis. If a requestor does not contact the Public Records Officer within thirty (30) days of being notified that the records are available and arrange for the review of an installment or view the installment on the Public Records Center; AWC may deem the request abandoned, stop fulfilling the remainder of the request, and close the request.

6. Creating Records

A public records request only applies to records that exist at the time of the request. The PRA does not apply to requests for information or require AWC to create a new record. Requestors cannot make "standing" PRA requests. AWC will respond with records existing as of the date of the request.

7. Failure to Respond

If AWC does not respond in writing within five (5) business days of receipt of the request for disclosure, the person seeking disclosure is encouraged to contact the Public Records Officer to determine the reason for the failure to respond.

**C. Processing Public Records Requests**

1. Order of Response

Fulfillment of requests will be 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 behind larger or more complicated requests strictly because they were received later.

2. Locating Responsive Records

The Public Records Officer will determine what departments might have responsive records and whether it will be necessary to conduct electronic searches for records. The Public Records Officer will then coordinate with key individuals in each department and other AWC staff as needed. AWC staff will be prompt in researching where there may be responsive records and providing them to the Public Records Officer in accordance with the timeframe requested by the Public Records Officer to locate responsive records.

3. Identifying Potentially Exempt Records

The Public Records Officer is responsible for identifying records that are potentially exempt or contain potentially exempt information. The Public Records Officer will then work with the Records Supervisor and/or legal counsel to determine if any exemption applies.

4. Electronic Records

Unless the Requestor requests copies of records in a specific format, AWC will usually produce records in electronic format. If the electronic record or its attachment does not require redaction, AWC will

produce the record in its "native" format such as a Word, PDF, msg, or PST file if it is reasonable and technologically feasible for AWC to do so. Fees may apply as indicated in Section 111.F. Electronic records that require redaction usually cannot be produced in native format and will be converted to paper or PDF.

5. Additional Time to Complete Request

When processing the request requires additional time beyond the estimate provided in the initial response, the Public Records Officer will notify the Requestor that an extension of time is required and provide an updated estimate of the time needed to respond.

**D. Completing a Request**

1. Providing Records

Once the Public Records Officer has collected all responsive records, has reviewed the responsive records to remove exempt or redacted portions of records, and has prepared an exemption log, the Public Records Officer will notify the requestor that the records are ready and request payment for any associated fees; or notify the requestor that the records are available. Once any payments have been received records will be provided electronically to the requestor on the Public Records Center located on the AWC website. See section G below if records were requested to be inspected at AWC's main office.

2. Completion of the Request

Once all copies of requested records have been provided to, the Requestor or the Requestor has reviewed the requested records, or thirty (30) days have passed since the requestor was notified that the records were available and the Requestor has failed to review those records or make payment for costs associated with the request the Public Records Officer shall treat the request as closed.

3. Closing Withdrawn or Abandoned Files

The Public Records Officer will consider the request withdrawn or abandoned and close the request when the requestor withdraws the request, or when thirty (30) days have passed since:

- a. The public records officer requested clarification of an unclear request; or
- b. The requestor has been notified that a deposit was required to proceed with the request, or the requestor failed to make payment for the remaining balance of the request or the cost of the installment; or
- c. The requestor has been notified that records were available and has failed to view those records.

**E. Exemptions**

1. Exemptions

The Public Records Act and other statutes exempt from or prohibit disclosure of certain records. It is the policy of AWC to provide prompt and helpful access to all public records in AWC's custody that state or federal statutes do not exempt or prohibit from disclosure. Requested records may only be withheld or redacted consistent with statutory requirements, which will be documented for the requestor in accordance with the requirements of RCW 42.56.210.

Some records that are otherwise subject to disclosure may contain specific content that is exempt from disclosure. The presence of exempt information does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record will be redacted prior to inspection or copying, and such redactions will be documented. The Requestor will be notified of the redaction in accordance with the requirements of RCW 42.56.210.

The following are summaries of common exemptions relied upon by AWC. Note that AWC reserves the right to assert any exemptions permitted by law when AWC determines non-disclosure serves the public interest and is not limited to the exemptions listed below:

- a. Records that are protected by trade secrets laws (RCW 19.108);
- b. Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss (RCW 42.53.270(1));
- c. Personal information in files maintained for AWC board members and employees, or that might be found on mailing lists or rosters, to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, social security numbers, voluntary deductions, marriage status, number of dependents, and any garnishment deductions (42.56.230(3) & .250(3));
- d. Preliminary drafts, recommendations, and internal memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record will not be exempt when publicly cited by the board relating to any board action RCW 42.56.280);
- e. All applications for employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant; (RCW 42.56.250(1));
- f. Medical records;
- g. Records created in anticipation of litigation (RCW42.56.290);
- h. Records reflecting communications between attorneys and AWC board members and/or employees where legal advice is sought or received. The Public Records Officer shall consult with legal counsel before releasing any records relating to AWC's attorneys to determine if the record is in fact privileged or otherwise exempt from disclosure (RCW 5.60.060 (2)); or
- i. Any record which is exempt from disclosure under state or federal law.

2. Redaction

If Deputy CEO/COO determines any portion of a record is exempt pursuant to exemptions listed above, and, if those exempt portions of Public Records can be redacted, the remainder thereof will be open to public inspection and copying and will be provided to the requestor. For example, by way of illustration only, a copy of the record may be provided for inspection in which the redacted information has been blacked out.

3. Exemption Logs

When records are withheld, or redacted, the requester will be informed in writing the statutory citations for the exemption and a brief explanation of how the exemption applies. For withheld records, AWC will also provide basic identifying information for each withheld record including the type of record, the date the record was created, the number of pages, the author, and recipients, if any. If disclosure of such information reveals protected or exempt content, AWC may designate the exempt records by another means, such as with a numbered sequence.

4. Legal Counsel

For any questions AWC may have regarding whether an exemption should be redacted, legal counsel assistance may be sought.

**F. Cost of Providing Public Records**

No fee will be charged for the physical inspection of public records. The requestor may be charged the following fees as applicable by RCW 42.56.120 when requesting copies of records or electronic records. A statement of the factors and the manner used to determine the charges for copies is available from the public records officer.

1. No Charge for De Minimis Copies, Scans, and Electronic Files

AWC will copy up to five pages in black and white, scan up to five pages of paper into electronic format, and upload up to eighty files to cloud-based data storage service, or other means of electronic delivery; and transmit up to 10 GB of data free of charge. If copying, scanning, uploading, or transmitting of records exceeds five pages or eighty electronic files, or ten gigabytes, the requestor must pay for all pages copied or scanned; or all files uploaded or transmitted as outlined below.

2. Fee Schedule

AWC adopts the statutory default fee schedule for most its records per RCW 42.56.120 (2) (d).

<b>Association of Washington Cities Fee Schedule</b>	
<b>Inspection of records</b>	
No fee	Inspection of AWC scheduled at main office
No fee	Accessing or downloading records AWC routinely posts on its website
<b>Copies</b>	
15 cents per page	Photocopies, printed copies of electronic records when requested by the requester, or for the use of agency equipment to make photocopies
10 cents per page	Scanned records, or use of AWC equipment for scanning
05 cents for each 4 electronic files or attachment	Records uploaded to cloud- based data storage service, or other means of electronic delivery
10 cents per gigabyte	Records transmitted in electronic format or for use of AWC equipment to send records electronically
Actual cost	Digital storage media or devices: <ul style="list-style-type: none"> <li>• CD</li> <li>• DVD</li> <li>• Thumb drive</li> <li>• Other</li> </ul>
Actual cost	Postage or delivery charges. Specific amount based upon postage/delivery charges for specific mailings or deliveries
Variable costs	Records for which other costs are authorized pursuant to specific fee statutes
<i>Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a request</i>	
<b>Customized service</b>	
Actual cost	Data compilations prepared or accessed as a customized service (cost in addition to above fees for copies)

3. Customized Service Charge

If a request requires use of information technology expertise to prepare data compilations or provide customized electronic access services to respond to a request, when such services are not otherwise used by the organization, AWC will impose a customized service charge for the actual costs of providing



the service. The Public Records Officer will notify the requestor and provide an estimate of the charges in advance.

4. Third Party Vendors

AWC will charge the requestor for the actual cost of any copies produced outside AWC by a third-party vendor, including taxes.

5. Other Costs

AWC will charge the requestor for any postage and shipping costs, including the cost of any containers used in shipping. The Public Records Officer may elect to waive these fees. Fees will be waived when the expense of billing exceeds the cost of copying and postage.

6. Deposits and Payments

Before producing any record, AWC may charge a deposit up to ten percent of the estimated costs of the entire request before beginning to produce the records. AWC will also require payment of the remainder of the associated costs before providing the records. When records are being produced on an installment basis, AWC may charge for each installment. The decision not to request a deposit will not serve to waive AWC's right to request a deposit for a future request. If the deposit or fees are not paid within thirty (30) days of notification of deposit, or notification that records are available, or if the Requestor has not contacted AWC within this thirty (30) day period to arrange a date to claim and pay for the installment outside this period, AWC is not obligated to fulfill the balance of the records request and will consider the request abandoned.

**G. Physical Inspection of Public Records**

1. Inspection of Records

Upon request and consistent with other demands, AWC will provide space to inspect public records. AWC will make records available to the requestor for inspection and copying during AWC's customary office hours. The requestor must claim or review the assembled records, or make arrangements with the Public Records Officer within thirty (30) days of the notification that records are available for inspection.

2. Protection of Records

In order that records maintained at AWC may be protected from damage or disorganization as required by the Act, the following procedures and practices shall be followed:

- a. No records shall be removed from AWC's offices without permission of the Deputy CEO/COO;
- b. Inspection of records shall be conducted in the presence of the Public Records Officer or designated staff;
- c. No record may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;
- d. Records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by AWC staff; and
- e. Records may be copied only on the copying machines of AWC, unless other arrangements are made by the Public Records Officer.

3. Loss of Right to Inspect

Inspection shall be denied, and the records withdrawn by the Public Records Officer if the requestor, when reviewing the records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of AWC.

**H. Administrative Review of Denial**

A requestor may ask for review of a decision to withhold or redact exempt records by submitting a written petition for review to the Public Records Officer that includes a copy of the records request, the redaction or exemption log or detailed description of AWC's statement of withholding and identifies the decision or part of the decision being challenged.

The request for review and any relevant information shall be forwarded immediately to the Records Supervisor which will then refer it the Deputy CEO/COO, and in consultation with legal counsel, will consider the petition and either reverse or affirm the denial within two (2) business days following AWC's receipt of petition, or within such other time as AWC and the requestor mutually agree. If the withholding or redaction is affirmed, the decision shall be considered AWC's final action for review. If the decision to withhold or redact is reversed, the Public Records Officer shall proceed to make the subject records available to the requestor for inspection in accordance with the provisions of this policy.

**I. Preservation of Records**

AWC's records are the property of AWC and as public records are subject to disclosure unless the law provides an exemption. Records will be managed and disposed of by AWC in accordance with state regulations. Nothing in this policy prevents AWC from disposing of records that have met the required retention period. If a record request is made at a time when such a record exists but is scheduled for disposal in the near future, the Public Records Officer shall retain possession of the record, and may not dispose of it until the request has been filled. Outgoing officials and employees shall deliver all AWC records in their possession to their supervisors before leaving office or employment.

**J. Index of Public Records**

AWC will make available for public disclosure its records retention schedule as its index of public records.

**K. Disclaimer of Liability**

Neither AWC nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon release of a public record if the person releasing the record acted in good faith in attempting to comply with this policy.

This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall," nothing in this policy is intended to impose mandatory duties on AWC beyond those imposed by state and federal law.

APPROVED and adopted *June 15, 2018*

By: *Peter B. King*  
Peter B. King, AWC CEO

Attest: *Luann Hopkins*  
Luann Hopkins, AWC COO

References:

Chapter 42.56 RCW

Chapter 40.14 RCW

Chapter 82.12 RCW

Chapter 44.14 RCW

Chapter 434-615 WAC

Washington State Local Government Common Records Retention Schedule

AWC Board Resolution-2018-01, Records Management Program