

November 17, 2025

Attorney General Nick Brown
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RE: Proposed changes to the model rules Public Records Act requests – (CR-102 / WSR 25-20-108)

The Washington Public Utility Districts Association (WPUDA) appreciates the opportunity to provide comments on the proposed changes to the model rules that guide governments' responses to Public Records Act requests.

WPUDA represents 27 of the state's public utility districts which provide water, wastewater, energy, telecommunications, and other utility services. As local government service providers, Washington's Public Utility Districts (PUDs) exist to serve the needs of their customers; this service includes providing public records consistent with chapter 42.56 RCW PUBLIC RECORDS ACT.

Our PUD membership receives and fulfills hundreds of public records requests annually. Some of these requests come to small PUDs who cannot provide full-time positions dedicated solely to public records response processes. For these PUDs, staff with many other full-time duties, respond to public records requests. The reality for these PUDs is that adding staff, no matter their duties, directly translates into increased costs to retail customers. Increased costs pose a significant burden for low-income customers, which conflicts with recent statewide efforts to minimize such burdens.

WPUDA values the important role of the media in informing the public regarding actions by public agencies. At the same time, we recognize the good work of many public agencies who are responsive to public records requests consistent with state law when fulfilling these requests in a timely and efficient manner.

We have reviewed the proposed changes and offer the following input at this time.

[WAC 44-14-030](#) *Availability of public records.*

WPUDA provided input in January 2025 on proposed changes to "**[WAC 44-14-030 Availability of public records...](#)(3) *Organization of records – centralized electronic system.*" - regarding the undue burden that this requirement would impose on smaller public agencies. We appreciate that this is no longer included under the proposed changes as indicated in CR-102 / WSR 25-20-108**

WAC 44-14-040 Processing of public records requests— General.

*(1) **Providing "fullest assistance"**. The (name of agency) is charged by statute with adopting rules which provide for how it will "provide full access to public records... including, when appropriate, triaging requests into simple and complex tracks to ensure that processing times are proportionate to the difficulty of each request. Where a request has been made for a single, specific, identifiable record, the (name of the agency) will endeavor to produce the request within five business days if practicable to do so.*

The requested language does not reflect the complexity of responding to public records requests and can result in the opposite of the intended outcome. A single page document may take more time to process than a multi record request if it requires redacting of sensitive information exempt from disclosure and/or legal review to ensure the agency is not disclosing information that is exempt under the law. In addition, prioritizing multiple "simple" requests can cause significant delays to other more complex requests that are of equal importance to the requester.

To expedite requests recognizing that all requests have importance to the requester, WPUDA suggests adding to the guidance inclusion in public records requests specific and limited key search terms such as title, names, subjects, policy, etc. and a date range to enable agencies to identify and produce responsive records more quickly.

Requiring staffing levels to avoid "backlogs" in public records request would require small agencies to employ staff at levels that anticipate a situation in which an unusually high number of requests are submitted. Some agencies have few public records requests but can experience a rapid increase in the event of a controversial issue or increased public interest in agency activities. Again, providing some additional parameters as suggested above could better expedite requests while prudently managing public funds for staffing.

(3) The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records before providing the initial response. When evaluating the nature of the request, the (name of the agency) should consider if the requestor has identified a reason that time is of the essence for the production of the records and if it is practicable to produce the records in the time frame provided by the requestor.

The proposed language recommends adding to evaluation of the request "whether time is of the essence such as when records are needed for participation in a hearing, public comment process or election or to deal with an urgent safety or health issue or other matter that is known to be of pressing and time-sensitive importance." This guidance has the potential to cause chaos with the potential for all requests to be considered urgent according to the requesters to receive priority in response. In addition, it should be noted that the Public Records Act (RCW 42.56.080(2)) prohibits public agencies from requiring requesters to "provide information as to the purpose of the request..." such as whether it is intended for time-sensitive use.

Therefore, WPUDA does not believe this guidance is consistent with the PRA and should not be included in the Model Rules.

*(4) **Acknowledging receipt of request.** Following the initial evaluation of the request under (3) of this subsection, and within five business days of receipt of the request, the public records officer will do one or more of the following: ...*

(d) Deny the request and provide the requestor the information in subsection (7) of this section regarding any records that are withheld in their entirety or are redacted.

This section refers to exemptions and how they apply. In the suggested new language under [4(d) - Deny the request], the suggested language is redundant to existing rules. Public organizations are already required to provide an exemption log citing the RCW with the exemptions and what was withheld.

*(6) ~~((Protecting rights of others.))~~ **Third party notice and preventing irreparable harm.** In the event that the requested records contain information ((that may affect rights of others and may be exempt from disclosure)), the disclosure of which may substantially and irreparably damage any person or vital governmental function, the public records officer may, prior to providing the records, give notice to a person named in such ((others whose rights may be affected by the disclosure)) records or to whom the records specifically pertain. Before sending a notice, an agency should have a reasonable belief that the records are arguably exempt from disclosure. Such notice should be given so as to make it possible for ((those other persons to contact)) the requestor ((and ask him or her)) to revise the request, or, if necessary, allow the affected person 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 and inform them that the disclosure will occur on a date certain, generally within 10 business days of the notice, unless an injunction is obtained under RCW 42.56.540.*

Third party notices are sent as needed based on [RCW 42.56.270](#) *Financial, commercial, and proprietary information.*

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter: (1) 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.

In addition to RCW 42.56.270, there is also ESHB 1533, which amended RCW 42.56.250 [MRSC - New PRA Exemption Available to Protect Employee Safety](#) to exempt from disclosure certain information of agency employees or their dependents who are survivors of domestic violence, sexual assault, harassment, or stalking or are otherwise enrolled in the [Address Confidentiality Program](#) (ACP).

Third party notification is necessary to ensure the agency complies with the law and does not disclose information that may be deemed exempt from law by another party and potentially damaging to the party.

(8) Inspection of records.

(b) The requestor must claim or review the assembled records within ((thirty)) 30 days of the (name of agency's) notification ((to him or her)) that the records are available for inspection or copying, unless another time frame is agreed upon by the agency and the requestor.

Section 8(b) proposes “an agreed period” in which a requester should claim or review records. Staff who manage requests should have the ability to close a request following a certain amount of time where communication is terminated. For agencies dealing with numerous requests, this allows for movement and closure without additional administrative burden.

For example, if an agency has been consistently communicating with a requester via email, and suddenly there is no response, it should not be the responsibility of the agency to determine whether it was received, or not.

A request can always be re-opened by a requester, but to support the agency and the administrative burden the PRA imposes, and to help with efficiencies of staffing and workflow, the thirty-day period should not be removed. Where communication has been consistent and confirmed, the onus should not be placed on the agency.

(12) Closing (~~withdrawn or abandoned~~) a request. A records request will be closed when a requestor has inspected all the requested records, or copies of all responsive records have been provided, or a web link has been provided, or there are no records responsive to the request. A records request will also be closed when the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to provide information legally required to obtain the records, or fails to fulfill his or her obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies(, the public records officer will close the request and, unless the agency has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the (name of agency) has closed the request)). The (name of the agency) will provide the requestor a written communication stating the reason the request is closed, the date on which the request is closed, the fact that the agency will not further address the request, the date from which the one-year statute of limitations to seek judicial review begins to run, and the requestor may ask follow-up questions within a reasonable time frame. In those circumstances where the (name of agency) is asking the requestor to take an action, it may provide this written communication either at the time it requests action from the requestor by explaining the consequences of failing to take action, or both.

Currently, per the existing rules if the requestor withdraws the request, fails to clarify an entirely unclear request, fails to fulfill his or her obligations to inspect the records, fails to pay the deposit or the required fees for an installment, or make final payment for the requested copies the public records officer will close the request.

WPUDA suggests consolidating notification of closure of the request and intent to close by indicating to the requester that the request will be closed at a specified date as an “abandoned request”, allowing time for the requester to retrieve the records.

WPUDA recommends that consideration of any proposed changes to these rules be fully vetted with the affected public organizations before changes are made. Moreover, any change to the model rules should be consistent with the law and provide equitable access to all requestors.

Please contact me directly at 360-890-6681, or tnelson@wpuda.org to answer any questions or provide additional clarifications.

Thank you for the opportunity to provide these comments.

Sincerely,



Travis Nelson, Regulatory Affairs Manager
Washington Public Utility Districts Association