



November 14, 2025

Subject: Comments on Proposed Amendments to the Model Public Records Act Rules

Dear Attorney General,

Thank you for the opportunity to comment on the proposed amendments to the Model Public Records Act (PRA) Rules. The undersigned representatives of the City of Vader support transparency, accountability, and improving public access to government records. However, we write to state an objection to several proposed changes because they are inconsistent with Chapter 42.56 RCW, and this inconsistency creates an untenable legal risk for cities who rely on the model rules to implement the PRA. Additionally, there are significant equity and operational concerns that will hinder effective implementation and only lead to costly and unnecessary litigation for all public agencies in Washington.

1. Amendments to Third-Party Notification Process Creates Legal Risk and Eliminates Protections for the Public.

Third-Party notification is an important safeguard against the dissemination of private information and the proposed amendments to the model rules would minimize, if not eliminate, its usefulness. The proposed amendments disallow an agency from providing third party notice unless the agency first determines whether disclosure of the record “may substantially and irreparably damage any person or vital governmental function.” Notice may only be given if the agency also has a “reasonable belief that the records are arguably exempt from disclosure.”

Not only are these two requirements replete with undefined terms that, presumably, will be defined by the courts through expensive litigation, but they necessitate new time-consuming (and expensive) procedures, without offsetting funds. An agency’s public records officer must now conduct a detailed analysis that is fraught with legal peril, thus requiring input from legal. The PRO must consider what information they need to determine whether substantial and irreparable damage is possible: to meet the standard of good faith, the PRO will need to evaluate the document, conduct research into publicly available records, or even attempt to contact the named individual—thus, in fact, providing the now prohibited third party notice.

Additionally, the application of exemptions is a fluid endeavor guided by the courts’ interpretation of the PRA. The proposed amendment’s requirement that there be a “reasonable belief” of an exemption

The proposed discouragement of third-party notifications would remove an important safeguard. While statutory exemptions are essential, the notification process provides transparency and due process to those whose information may be affected. Eliminating it could expose agencies to litigation risks and reduce trust among stakeholders. Retaining the option for third-party notifications without this vague threshold requirement ensures a balanced, fair process that protects all interests.

2. Proposal to Prioritize Requests Upon Demand Violates RCW 42.56.080 and Creates Costly Legal Risk for Agencies.

The proposed change to the model rules that would require agencies prioritize smaller or simpler requests over larger, more complex ones is inconsistent with RCW 42.56.080, which provides “[a]gencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request...” This first-come, first-serve approach is working - we work as quickly as possible to provide the best customer service possible using the resources available. Despite our best efforts, we frequently have requestors urging us—many times, using “colorful” language—to allow their request to “cut the line” because their purpose, from a real estate closing to an upcoming election, is an emergency for them. The proposed model rule conflicts with RCW 42.56.080’s prohibition on asking requestors the “when and why” behind their requests, and will empower requestors to not only vie for priority by providing detailed accounts of the purpose for their request (which, itself, becomes a disclosable public record). But more troubling, it leaves the agency with another decision fraught with legal peril – a no-win situation. How do we weigh the import of the plea of a parent seeking a police report about a crime against their child against the urgings of an author on a deadline to publish an article on an investigation into a whistleblower’s complaint? We are prohibited by RCW 42.56.080 from prioritizing one request over another and implementing the model rules with the proposed modification will create legal liability for public agencies.

There is no justification to write the concept of prioritization into Chapter 42.56 RCW as the legislature’s inaction speaks volumes. The legislature has provided special accommodation under the PRA for individuals invoking the identify of “media”; for example, they have access to records unavailable to the public. Had the legislature intended for an expedited process for requests from the media, or anyone for that matter, they would have done so.

Beyond the legal conflict, the proposed method of prioritization injects subjectivity into objective processes that will undermine equitable access. While this framework may speed responses for straightforward requests, it risks delaying complex requests that often involve significant matters of public interest. Assessing the “time-sensitivity” of requests introduces a subjective element that may lead to inconsistent application and increased administrative burden.

Instead of this change, we encourage a more flexible approach that empowers agencies to manage workloads while maintaining fairness for all requesters.

3. Requiring agencies to pursue unresponsive requestors before closing unclaimed or abandoned requests would create significant operational challenges.

The proposed amendments to the model rules would require agencies to engage with unresponsive requestors before closing unclaimed or abandoned requests and result in a severe operational burden—an administrative nightmare in practice. Many cities have seen a sharp increase in abandoned requests—nearly doubling between 2018 and 2022. This is a result, at least in part, of the use of the PRA for profit: from Youtube accounts that stream body camera footage abandoning requests en mass, to clearinghouse sites that list all vendors and their pricing, requests are submitted to mine for records to turn around and sell back to the public, but when timelines or associated statutory fees are too high, requests are abandoned without notice. Mandating additional follow-up for these unclaimed requests diverts limited staff resources from active matters and contributes to growing backlogs. Agencies need the ability to close out unclaimed or abandoned requests efficiently once a reasonable timeframe passes with inaction by the requestor. The proposed model rule modification creates a significant and operationally unnecessary burden of pursuing those individuals who clearly do not want to engage before the request can be closed.

4. Amendments Ignore Resource Constraints and Problems Created by Monetization of PRA

Requiring “diligent” installment processing without addressing underlying resource constraints places additional pressure on already overextended city staff to meet a vague and undefined standard. Local governments are committed to timely responses and there are already penalties in place for those agencies that take the summer off or are otherwise nonresponsive. Without additional support—whether through funding, staffing, or technology—these new expectations are not sustainable for agencies of all sizes, in practice.

Additionally and unfortunately, the proposed model rules do not address a key factor that creates unnecessary delay in the process: the abuse of the public records act for monetary gain. A significant amount of resources are funneled to addressing broad requests designed to “catch” an agency just trying its best—these requests typically result in a monetary settlement demand from the requestor a few months after the request is closed. Similarly, many agencies face repeat requests from for-profit entities using the records for a commercial purposes that do not meet the narrow definition of 42.56.080. There are many legislative fixes to this problem that embrace transparency and efficient release of records. For example, the imposition of a claim notice process (similar to the tort claim process) where an agency gets an opportunity to resolve a disputed request *before* costly litigation and potential penalties is an easy and effective method for eliminating the use of the PRA solely for monetary gain and not in furtherance of transparency.

Recommendations for Improvement

To ensure that the final amendments achieve their intended goals while remaining practical and equitable, we respectfully recommend the following:

- **Flexibility in Prioritization:** Maintain the status quo, which allows agencies to scale prioritization systems suited to their capacity while maintaining fairness for all requesters.
- **Support for Implementation:** Include mechanisms for technical assistance or funding to address staffing and technology limitations.
- **Preserve Third-Party Notifications:** Retain this process without modification as a critical safeguard for sensitive records and a means to prevent unintended disclosures.
- **Clear Guidance for Abandoned Requests:** Provide explicit authority for agencies to close unclaimed or abandoned requests after reasonable notice without the need to chase down disinterested requestors for consensus.

The City of Vader values the Attorney General’s leadership in promoting open government. With these adjustments, the proposed amendments can both enhance transparency and reflect the operational realities facing local governments. We welcome the opportunity to collaborate further on practical solutions that strengthen public trust and improve records management statewide.

Thank you for considering our comments and for your continued partnership in advancing transparency and accountability.

Sincerely,
Kristyn Miller
City Clerk/Treasurer
City of Vader