

CITY OF SELAH – POLICY FOR PROCESSING PUBLIC RECORDS REQUESTS

1. PURPOSE

The purpose of this Policy is to provide for, and reduce to writing, the City procedures and guidelines for the promotion of consistent and prompt responses to requests for public records, to provide guidance to those who submit public disclosure requests, to provide guidance to City employees who respond to those requests, and to ensure that the City provides "fullest assistance" to requesters.

"Fullest Assistance." The principle of "fullest assistance" guides the City when processing records requests. The City's obligation to provide fullest assistance extends to all requesters. In general, the City will devote sufficient staff time to processing records requests, consistent with the PRA's requirement that fulfilling requests should not be an "excessive interference" with the agency's "other essential functions." WAC 44-14-04003 and RCW 42.56.100. The City's goal is to respond to the greatest number of requests from the greatest number of requesters. Fullest assistance does not require the City to ignore or modify its internal business processes for responding to public records requests or to comply with aspects of a request altering the City's internal administrative matters. Fullest assistance does not mean that the City must acquiesce to demands of one requester if it may detrimentally affect the City's ability to provide fullest assistance to other requesters, result in damage or disorganization of agency records, or excessively interfere with other essential agency functions.

2. DEFINITIONS

"Person" means an individual, government, or corporate entity.

"Bot request" means a request that is automatically submitted by a computer program.

"Malware" means hostile or intrusive software and malicious programs that may jeopardize or harm computer systems or equipment.

"Dos" means a Denial of Service attack, which is an incident with the effect of depriving a user or organization of a resource they would normally expect to have. A Dos attack may take the form of a distributed denial-of-service (DdoS) attack, which is an attempt to make an online service unavailable by overwhelming it with traffic from multiple sources so that genuine users cannot gain access.

"Extraordinary Request" means a request which involves one or more of the following: exceptionally broad language, substantial, long-term interdepartmental coordination, voluminous quantities of responsive records or data, extensive and detailed legal review, or other significant resource limitations or excessive impacts on essential City functions.

“Public Records Officer” (“PRO”) means the person designated by the City to receive and process public records requests.

3. APPLICABILITY

This policy is adopted with the intent that the City follow it, including all departments, boards and commissions and all others subject to the PRA.

4. CITY WEBSITE

The City has, as part of its website, a public disclosure request page which, includes:

- (a) A web portal for submitting public disclosure requests;
- (b) Information and links to frequently requested public records and public records related to current issues and contact information for the City’s PRO, and a list of common exemptions from disclosure.

5. PUBLIC RECORDS REQUESTS

5.1 Public Records Officer.

5.1.1 The City shall have a designated Public Records Officer who works within the City Clerk/Treasurer’s Office.

5.1.2 Each department within the City shall designate a person with whom the PRO will work to coordinate responses to public records requests affecting each department.

5.2 Submitting Requests

5.2.1 How to submit a request to the City. The City's standard and preferred request method is via the online request portal.

5.2.2 Alternate means of submitting requests. A requester who does not have access to the online request portal, may submit a request to the PRO via USPS mail or in person. The PRO will enter a request received via mail or in person into the website request portal for purposes of tracking, processing, and providing responses to such public disclosure requests.

5.2.3 The City has no duty to accept automated or "bot" requests. An automated computer program is not a "person" within the meaning of the PRA, which requires that records be made "available to any person." RCW 42.56.080. Consistent

with Washington law, the City interprets the term "person" to mean an individual, government or corporate entity. See, *Gontmakher v. City of Bellevue*, 120 Wn. App. 365, 370, 85 P.3d 926 (2004); see also, RCW 1.16.080 (1). The City does not interpret the term "person" to include an automated computer program. Automated or "bot" requests pose a security risk to the City because they could introduce malware to City systems or be used for a DoS attack on the City. The City has no duty to accept such requests and will deny such requests. The City has the discretion to block any request(s) if it has a reasonable basis to believe that the request(s) pose a security risk to the City or any of its systems or equipment.

5.2.4 A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under RCW.42.56.080 and 2016 c 163 s 3, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of an agency's records.

5.2.5 The City does not accept public records requests via social media or voice mail. The PRA requires that a requester put an agency on fair notice that it has received a PRA request. *Beal v. City of Seattle*, 150 Wn. App. 865, 876, 209 P.3d 872 (2009). A request's medium is "relevant to its clarity." *Id.* The City cannot ensure that it will properly recognize or even receive a request sent by means other than the City's adopted procedures. For example, the City will not monitor social media sites or review voice mail on the chance that a requester may attempt to submit a request via one of those methods.

5.3 Responding to a Request

5.3.1 Written responses. The Act requires that agencies provide a written response to all public disclosure requests within five full business days of receipt, exclusive of weekends and holidays. In other words, if a request is received on a Monday prior to 5 p.m., typically a response must be sent no later than the following Monday prior to 5 p.m. Initial responses will do one or more of the following:

- (a) Make the records available for review;
- (b) Provide a reasonable estimate of time within which the City will respond to the request;
- (c) Deny the request in whole or in part and cite the specific exemption(s) that applies;
- (d) Ask for clarification;
- (e) Let the requester know that there are no responsive records.

5.3.2 A reasonable estimate of time. When the City receives a public records request, the PRO, working in conjunction with affected departments, will determine a reasonable estimate of time within which it will respond to the request, factoring in the nature, volume, and availability of the requested records, the amount of time necessary to respond to a particular request as it affects the amount of PRO and non-PRO staff time that can be devoted to the responding to the requests of other requesters, as well as the impact on essential City functions. Specific factors that may affect the response time estimate include, but are not limited to:

- (a) Number of pending requests from the same requester;
- (b) Large number or volume of records requested;
- (c) Complexity or ambiguity of the request;
- (d) Access to database or electronic system records;
- (e) Whether the City must engage IT services;
- (f) Records not easily identified, located and accessible;
- (g) Current PRO staffing;
- (h) Current staffing of any involved City departments;
- (i) Research by City staff;
- (j) Amount of time needed by City staff who are not primarily responsible for public disclosure processing;
- (k) Number of department personnel or other City departments involved;
 - (l) Third-party notice;
 - (m) Complex review to determine if content is exempt;
 - (n) Extensive and complicated electronic redaction;
 - (o) Legal review;
 - (p) Resolving issues related to retention of responsive records; and/or
 - (q) Grouped requests

5.3.3 Categories. The PRO will place records requests into one of three categories. The categories are as follows:

Type 1 – The requested record(s) will be provided within a week (5 business days)

Type 2 – The requested record(s) will be provided within a month.

Type 3 – The requested record(s) cannot be provided within a month and the PRO will attempt to provide installments on a monthly basis as the records are compiled and made ready for disclosure.

5.3.4 Revised reasonable estimate of time. At any time while processing a response, the PRO may provide the requester with a revised reasonable estimate of time within which the City will respond to the request. A revised estimate of time will be based on the factors detailed in 5.3.2. In addition, a revised reasonable estimate of time may be based on:

- (a) Any unexpected or unforeseen delays encountered during the request processing;
- (b) Additional requests submitted by the same requester while the initial request(s) remain pending; and/or
- (c) Changed circumstances or other considerations ascertained during processing.

5.3.5 Order of Processing Requests. In order to allocate resources efficiently and fairly and to provide fullest assistance to all requesters, the City will process requests in the order that allows the greatest number of requests from the greatest number of requesters to be processed. Requests are not always processed in the order received. Factors detailed in 5.3.2 will affect timeline by which requests are completed.

5.3.6 Allocating specific amounts of time and resources to requests and requesters. In order to provide fullest assistance to all requesters and to prevent excessive interference with other essential City functions, the PRO may allocate specific amounts of time and resources to responding to a request, whether individual or grouped, and/or to a particular requester. This may include, but is not limited to, allocating a specific number of hours per week or month to be spent by the PRO and/or employees for whom responding to records requests is not among their primary assigned duties. The amount of time allocated shall be based on the factors detailed in 5.3.2 and 5.3.3.

5.3.7 Grouping requests. In order to provide fullest assistance to all requesters, to prevent damage to or disorganization of City records or excessive interference with other essential City functions, or to assure that the appropriate amount of City time and

resources will be fairly allocated among all requests and requesters, the PRO has the discretion to group multiple requests received from the same requester or similar requests from multiple requesters and to process the requests together as a group. The PRO has the discretion to group requests directed to multiple departments and to process the multiple requests together as a single request. The PRO has the discretion to process multiple requests received from one individual as a single grouped extraordinary request.

5.3.8 Effect of grouping requests. When requests are grouped, the City shall process and respond to the grouped requests as a single request. Each requester will receive a duplicate copy of the response as appropriate and desired by the requester.

5.3.9 Unclear requests. In acknowledging receipt of a records request that is unclear, the PRO will work with the requester to clarify what records the requester is seeking.

5.3.10 Extraordinary requests. When the City receives an extraordinary request, the City may, pursuant to 5.3.1, provide a reasonable estimate of the time it will take to respond. That response may be a denial, request for clarification or initial plan to locate, retain, review and produce records responsive to the request. The City may, at any time, revise its estimate upon further review or changed circumstances as provided in 5.3.3. In calculating the reasonable estimate of time required for the City to determine how to respond to an extraordinary request, the City shall consider the factors detailed in 5.3.2 and 5.3.3.

5.3.11 responding to requests in installments. Based on the factors detailed in 5.3.2 and 5.3.3, the City may elect to provide records on an installment basis to a request, whether individual or grouped. The PRO should provide a reasonable estimate in the initial written response concerning when the first installment will be available, and if possible, a schedule for future installments. The PRO may require a deposit prior to processing the request as provided in 6.6.

5.3.12 Abandoned requests. The City will deem a request abandoned in the following circumstances:

- (a) If a requester fails to respond to a City request to clarify, whether individual or grouped, within 30 days of the request for clarification;
- (b) If a requester has elected to inspect records, the request, whether individual or grouped, may be deemed abandoned:
 - 1) If the requester fails to contact the PRO to arrange for the review of the first installment within 30 days of

being notified that the first installment is available for inspection; or

2) If the requester misses an appointment to inspect responsive records or any installment of records and fails to contact the PRO to arrange another appointment to inspect within 30 days of the missed appointment;

(c) If a requester has elected to receive copies of records, a request, whether individual or grouped, may be deemed abandoned:

1) If the requester fails to open and download within 30 days copies of responsive records or any installment of records provided to the requester electronically;

2) If the requester fails to pick up within 30 days copies of responsive records or any installment of records provided to the requester for pick up;

3) If the requester fails to pay for copies of any records or any installment of records within 30 days of receiving an invoice for those records; or

4) If the requester fails to pay a deposit within 30 days of notification by the City that it will require a deposit prior to processing a request as provided in 6.5.

5.3.13 Effect of abandoned request. Upon deeming a request, whether individual or grouped, abandoned, the City will stop processing and close the request. If a grouped request is abandoned, the City has the discretion to stop processing and close all individual requests that have been grouped as a single request.

6. RECORDS DELIVERY

6.1 Methods of records delivery. Records may be provided by the following *alternate methods*:

(a) Inspection

(b) In-person pick up

(c) Paper copies

(d) Electronic records, including scanned copies, on portable media, i.e., CDs/DVDs/Thumb Drive, or Portable Hard Drive

(e) By USPS

6.2 The City is not required to provide records in a particular electronic format. The PRA does not obligate an agency to provide a record in a particular electronic format. *Mechling v. City of Monroe*, 152 Wn. App. 830,847-50, 222 P.3d 808, 816-18 (2009). See also, *Benton Cty. v. Zink*, 361 P.3d 801,806-07 (2015). Government agencies have discretion regarding record formatting and are not required to provide records in the electronic format demanded by a requester. *Mitchell v. Dep't of Corr.*, 164 Wn. App. 597, 606-07, 277 P.3d 670 (2011). The Washington Attorney General's Model Rules suggest that agencies provide records electronically, if it is reasonable and technically feasible to do so. WAC 44-14-05001. The Model Rules, however, do not direct a particular format for that delivery; they merely say that agencies can provide copies of electronic records in an electronic format that is used by the agency. WAC 44-14-050(2), WAC 44-14- 07003.

6.3 Appointments for inspection. The City generally provides for inspection of public records by appointment. The PRA states that public records shall be available for inspection and copying during the customary office hours of the agency. RCW 42.56.090. Records that have been assembled in response to a request will be available by appointment during normal business hours (normally 9 a.m. to noon, and 1 pm. to 5:00 p.m.). Appointments shall be scheduled so that they don't interfere with essential department functions. The City must take reasonable precautions to protect records from damage and disorganization, including assigning individuals to be present during review of public record originals. There is no fee for inspection of public records.

6.4 Copying fees. The City shall impose a fee for copies of records in accordance with RCW 42.56.120 and 2016 c 163 s 4:

(a) Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records;

(b) Ten cents per page for public records scanned into an electronic format or for the use of agency equipment to scan the records;

(c) Five cents per each four electronic files or attachment upload to email, cloud-based data storage service, or other means of electronic delivery will be applied only when the dollar amount of the request exceeds two dollars;

(d) Ten cent per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically. The agency shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations;

(e) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requester, and the actual postage or delivery charge, these charges may be applied cumulatively;

(f) An agency may charge a flat fee of up to two dollars for any request as an alternative to fees when the agency reasonably estimates and documents that the costs allowed are clearly equal to or more than two dollars.

6.5 Deposits. Before copying records for a request, whether individual or grouped, or for any installment, the City may require up to a 10 percent deposit to cover the total cost of copying the records or installment. If a requester fails to pay a deposit within 30 days, the City will deem a request abandoned as reflected in 5.3.11 and 5.3.12.

6.6 Requesters may not attach devices or cables to City systems or equipment. Because of the potential for introducing a threat to the security of or otherwise damaging City systems or equipment, the City does not allow requesters to attach or insert their own devices or cables into any City computer system, equipment or USB port. Copying of records from a City system or equipment will be done by City staff. The requester must reimburse the City's cost for the storage media, and such copying will be done by City staff.