

220-RICR-50-05-3

TITLE 220 – DEPARTMENT OF ADMINISTRATION

CHAPTER 50 – DIVISION OF LEGAL SERVICES

SUBCHAPTER 05 - GENERAL

PART 3 – Access to Public Records Maintained by the Department of Administration

3.1 Authority

- A. R.I. Gen. Laws § 38-2-3(d) provides in part that each public body shall establish written procedures regarding access to public records and that a copy of these procedures shall be posted on the public body's website.
- B. R.I. Gen. Laws § 42-35-2(a)(1) states that each agency shall publish and make available for public inspection a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

3.2 Purposes and Policy

- A. To establish a defined public records procedure for the Department of Administration (“Department”) which is consistent with requirements of the Rhode Island Access to Public Records Act (“APRA”), R.I. Gen. Laws § 38-2-1, *et seq.* as amended.
- B. To facilitate open and transparent government at the Department to the greatest extent possible, while balancing privacy rights of the public, employees and vendors of the State.
- C. To recognize the public’s right to access public records while balancing an individual’s right to be protected from an unwarranted invasion of personal privacy.

3.3 Definitions

- A. “APRA” means the Rhode Island Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et. seq.*
- B. "Department" means the Rhode Island Department of Administration.
- C. “Readily Available” means records which are published in a formal manner for the public by the Department or as required by law.

- D. "Records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities) or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.
- E. "Request" means a submission asking for specific Records to be provided in accordance with the provisions and process stated herein.
- F. "Requestor" means a person or entity making a Request for Records to the Department.

3.4 Procedure for Requesting Public Records

- A. Records which are Readily Available for distribution or inspection may be requested or reviewed at the Department on weekdays between the hours of 8:30 AM and 3:30 PM. Individuals are strongly encouraged to view the Department's website and/or the website of individual divisions within the Department to determine whether the Records being sought are posted online. If a Requestor has any questions about the availability of Readily Available Records, the Requestor should contact the office/division within the Department responsible of the Readily Available Records. The Department's contact information is located on the Department's website.
- B. A Request for Records to the Department which are not Readily Available shall be submitted through one (1) of the following means:
 - 1. Through the Access to Public Records page of the State of Rhode Island's Transparency Portal or another internet portal approved by the Department.
 - 2. Through a centralized APRA email address to be established by the Department, which will be posted on the Department's website.
 - 3. APRA Requests not electronically submitted through the Transparency Portal or another internet portal approved by the Department, or the Department's centralized APRA email shall be submitted in person, by mail or fax to:
 - a. For Department Records:

Public Records Officer
Division of Legal Services
Department of Administration
One Capitol Hill, 4th Fl

Providence, Rhode Island 02908
Fax: (401) 222-8244
Tel: (401) 222-8880

Or:

Director of Administration
Department of Administration
One Capitol Hill, 4th Fl
Providence, Rhode Island 02908
Fax: (401) 222-6436
Tel: (401) 222-2280

- b. For Department Records which are related to the procurement of goods or services, including, but not limited to, bid documents, proposals or contracts with vendors:

Attn: APRA Requests
Division of Purchases
One Capitol Hill, 2nd Fl.
Providence, Rhode Island 02908
Fax: (401) 222-8244
Tel: (401) 574-8100

- (1) Individuals or entities making a request for procurement Records, are encouraged to visit the Division of Purchases' website to check whether the requested Records are available online and/or to check the status of a solicitation. Certain procurement records (i.e. proposals) may not be available until after the solicitation has been awarded.

C. Requestors are highly encouraged, but not required, to use the Department's standard request forms posted on the Department's website.

1. Any Requestor seeking copies of public records may elect to obtain them in any and all media in which the Department is capable of providing them. If the Department maintains its records in a computer storage system, the Department shall provide any data properly identified in a printout or other reasonable format, as requested.
2. Nothing in this section shall be construed as requiring the Department to reorganize, consolidate, or compile data not maintained by the Department in the form requested at the time the request to inspect the public records was made except to the extent that such records are in an electronic format and the Department would not be unduly burdened in providing such data.

3. No Records shall be withheld based on the purpose for which the Records are sought, nor shall the Department require, as a condition of fulfilling a Request, that a Requestor provide a reason for the Request or provide personally identifiable information about him/herself.
 4. At the election of the Requestor seeking Records, the Department shall provide copies of the Records electronically, by facsimile, or by mail in accordance with the Requestor's choice, unless complying with that preference would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The Requestor shall be responsible for the actual cost of delivery, if any.
- D. Submissions directed to the Department outside of this procedure shall not be subject to APRA time requirements. However, the Department shall use its best efforts to fulfill all requests for information in accordance with these provisions it receives in due course, regardless of whether the inquiry is properly submitted.
- E. The Department shall respond to a Request within ten (10) business days of receipt, by:
1. Providing the Records which are not exempt from disclosure in accordance with APRA, subject to the payment of cost as provided herein;
 - a. The Department reserves the right to waive any exemption under APRA unless otherwise prohibited by law or regulation.
 - b. Any reasonably segregable portion of a public record excluded by R.I. Gen. Laws § 38-2-2(4) shall be available for public inspection after the deletion of the information which is the basis of the exclusion. If an entire document or record is deemed non-public, the Department shall state in writing that no portion of the document or record contains reasonable segregable information that is releasable.
 2. Informing the Requestor in writing that the Department is invoking an extension of up to twenty (20) business day extension, in accordance APRA. The Department shall use reasonable efforts to respond as soon as possible. The Department shall also state the good faith basis for the extension in the correspondence to the Requestor.
 - a. The Department shall demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the Department.
 3. Informing the Requestor that the Department is not in possession of the requested Records or that they are exempt from disclosure.

- a. If a public record is in active use or in storage and, therefore, not available at the time a Requestor requests access, the Department shall so inform the Requestor and make an appointment for the Requestor to examine such records as expeditiously as they may be made available.
- F. The Department may require prepayment of copying, search and retrieval costs as follows:
1. Within the timeframes provided by APRA, the Department may inform the Requestor that prepayment for copy, search and/or retrieval charges is required to proceed with fulfilling the Request. In this event, the Department shall send the Requestor a good faith cost estimate related to copying, search and retrieval charges in accordance with R.I. Gen. Laws § 38-2-4. The requirement of prepayment of some or all of the estimated costs shall be in the Department's reasonable discretion.
 2. However, in no case shall the Department require prepayment for a Request estimated to be less than fifty dollars (\$50). Any cost estimate shall have reasonable basis for calculation.
 3. The time for response under APRA shall cease to toll until prepayment is made by the Requestor. If the estimate of costs is more or less than the actual amount, the Department shall refund or bill the Requestor as necessary. If the Requestor fails to provide payment, the Records, the Department shall not proceed with search and retrieval and the Records shall not be provided. Once payment is provided, the Department shall proceed with the Request and notify the Requestor that the Records are available upon receipt of any additional actual costs not covered by the estimate, if any.

3.5 Inspection of Records

- A. In the event that a Requestor wishes to inspect Department Records and does not wish to be provided with copies, the Department will send instructions to set up an appointment for a time to inspect the Department Records that are not otherwise exempt from public disclosure or are currently in use. The Department does not have a copy machine available for use by the public to make copies.
- B. In accordance with R.I. Gen. Laws § 38-2-3(f), as amended, if a public Record is in active use or in storage and, therefore not available at the time the individual or entity requests access, the Department will inform the requestor and make an appointment to examine such Records as expeditiously as the Records may be made available. After the person is advised that the Records are available, he/she can make an appointment to inspect the Records at the Department during the business hours of 8:30 a.m. and 3:30 p.m., Monday through Friday, by calling the Division of Legal Services at (401) 222-8880 for non-procurement

related records, or by calling the Division of Purchases at (401) 574-8100 for procurement records.

- C. All the provisions stated herein shall apply equally for a Request for inspection of the original Records.
- D. The Department shall supervise the Requestor's inspection of Records. No original Records shall be removed from the location of inspection by the Requestor. The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Department staff. This procedure is necessary to prevent the misplacement or unauthorized removal of Records or any other action which may impair the integrity of Records.
- E. Personnel in charge of the division within the Department having possession of the Record requested shall have overall responsibility for the security of the Requested Record. However, the individual in charge of that Division may designate a staff member(s) to assist in the search, retrieval, and copying of Records.

3.6 Costs

- A. Official publications which the Department prepares in the discharge of its duties to inform the public on matters of public interest are considered Readily Available and will be furnished free of charge for one (1) copy. The Department will supply one (1) copy of any of its Rules and Regulations to an individual requesting them free of charge. Rules and Regulations of the Department are on file at the Office of the Secretary of State and certified copies thereof may be obtained from that Office.
- B. Consistent with APRA, the Department may charge a fee for copying and/or search and retrieval of requested Records. The Department shall not charge more than \$0.15 per copied or scanned page. However, if the response to the Request consists of fifty (50) or fewer copied pages, no fee will be charged. Multiple Requests by the same Requestor within a 30 day time period shall be added together for calculating of cost purposes. The Department may also charge an hourly fee of up to \$15.00 per hour for the search and retrieval time required to respond to a Request, whether the Request seeks copies of Records or seeks to inspect original Records. There is no charge for the first hour of search and retrieval time. Search and retrieval time shall include the time to review and redact Records for information and/or Records that may be exempt from disclosure. Additionally, the Department may charge for the actual supply costs for providing Records (i.e. a CD-ROM for electronic records) and shipping charges in the event that the Requestor is not willing to pick up the Records.
- C. Upon request, the Department will provide the Requester with an estimate of the copying, search and retrieval costs prior to responding to the Request.

- D. As stated above in § 3.4(F) of this Part, the Department, in its reasonable discretion, may also require the Requestor to provide prepayment and/or a deposit in order to proceed with the Request. The Department shall, however, charge the actual costs for copies, search and retrieval time. The Department reserves the right to require a deposit of the estimated costs if the estimated costs are to exceed fifty dollars (\$50.00).
- D. The actual cost of copying, search and retrieval shall be paid in advance by check or money order made payable to the “RI General Fund” and submitted in accordance with the instructions provided by the Department for the records to be provided to the Requestor.

3.7 Appeals

- A. Any person or entity denied the right to inspect a Record of a public body may petition the Department’s chief administrative officer for a review of the determinations made by his or her subordinate. All appeals to the Chief Administrative Officer at the Department shall be directed to:

Director of Administration
Department of Administration
One Capitol Hill, 4th Fl
Providence, Rhode Island 02908
ATTENTION: APRA Appeal

- B. The chief administrative officer shall make a final determination within ten (10) business days after the submission of the appeal. In accordance with APRA, the Requestor may also otherwise appeal to the Rhode Island Attorney General or bring suit in the Superior Court, County of Providence.

3.8 Severability

If any provision of this Regulation or the application thereof to any individual or circumstances is held invalid, such invalidity shall not affect the provisions or application of the remaining portions of the regulation which can be given effect. The provisions of these rules and regulations are declared to be severable.