



METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON COUNTY

Metropolitan Government of Nashville and Davidson County - Finance Dept. Policy: Public Records Policy and Procedures

Effective Date: July 1, 2017

Revision Date: April 16, 2021

Policy Number: 7.3

Sponsor: Finance Director's Office

Purpose

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for Department of Finance of The Metropolitan Government of Nashville and Davidson County (hereafter "Department") is hereby adopted to provide economical and efficient access to public records as provided under the Tennessee Public Records Act ("TPRA") in Tenn. Code Ann. § 10-7-501, et seq.

The TPRA provides that all state, county and municipal records shall, at all times during business hours be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the Department are presumed to be open for inspection unless otherwise provided by law.

The Department shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Department, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for the Department, the Public Records Request Coordinator for The Metropolitan Government of Nashville and Davidson County, or to the Tennessee Office of Open Records Counsel ("OORC").

This Policy is posted online at <https://www.nashville.gov/Finance/Finance-Records-Request.aspx>. This Policy shall be reviewed by the Director of Finance annually.

This Policy shall be applied consistently throughout the various divisions of the Department. The Department shall:

- i. Preserve the confidentiality of a public record or information in a public record that is confidential under the Tennessee Public Records Act (T.C.A. 10-7-504 et seq., as the same may be hereafter amended), or other law.
- ii. Protect public records from damage or disorganization.
- iii. Make public records not exempt from disclosure and in the Department's custody available for inspection during normal business hours unless a state law provides otherwise.

Definitions

Confidential record: Any record, or part of a record, which is defined by the Tennessee Public Records Act, or other state or federal law, as being exempt from public inspection, including, but not limited to, those records listed in T.C.A., § 10-7-504.

Labor: The time reasonably necessary to produce the requested records and includes the time spent locating, retrieving, reviewing, redacting, and reproducing records.

Records Custodian: The official or employee lawfully responsible for the direct custody and care of a public



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record. See Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.

Public Records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, 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 the Department. See Tenn. Code Ann. § 10-7-503(a)(1)(A).

Public Records Request Coordinator (PRRC): The individual, or individuals, designated in Section III, C.1 of this Policy who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. See Tenn. Code Ann. § 10-7-503(a)(1)(B). The Public Records Request Coordinator may also be a records custodian.

Public Official: A federal, state, and local government official who seek records in their official capacity.

Requester: A person seeking access to a public record, whether it is for inspection or duplication.

General Policies

Requesting Access to Public Records

A. Public record requests shall be made to the Department's Public Records Request Coordinator ("PRRC") or his/her designee in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.

B. Requests for *record inspection only* may be made the following ways:

1. Via email to the Finance Director's Office at: Finance.PRC@nashville.gov
2. Contact the PRRC at the Finance Director's Office Main Line: 615-862-6151
3. Complete the Department's public records request form at <https://www.nashville.gov/Finance/Finance-Records-Request.aspx> or in person at 1 Public Square, Suite 107, Nashville, TN 37201 or by mail to the Department of Finance, PO Box 196300, Nashville, TN 37219.

Requests for *record inspection only* can be made in writing or by oral request. Written requests are encouraged to ensure that the appropriate records for inspection are made available to the requester. If the requester desires written communications from the Department to be sent to a preferred mailing or email address, these addresses must be provided by the requester. If the requester does not provide a preferred mailing or email address, then any Department requests for clarification or other written communication required by the TPRA in response to requests for inspection only will be sent to the mailing address shown on the proof of Tennessee citizenship submitted by the requester.

C. Requests for *copies, or requests for inspection and copies*, shall be made in writing through one of the following ways:

1. Via email to the Finance Director's Office at: Finance.PRC@nashville.gov.
2. Contact the PRRC at the Finance Director's Office Main Line: 615-862-6151
3. Complete the Department's public records request form at <http://www.nashville.gov/Finance/Contact-Us/Records-Request.aspx> or in person at 1 Public Square, Suite 107, Nashville, TN 37201 or by mail to the Department of Finance, PO Box 196300, Nashville, TN 37219.

D. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID as determined by the Department) is required as a condition to inspect or receive copies of public records.



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- E. Most public information regarding the Department's divisions, services, programs, events, and meetings are readily available on <http://www.nashville.gov/Finance.aspx>. In addition, The Metropolitan Government of Nashville and Davidson County offers an open data portal for some of the most frequently requested data and information at <https://www.nashville.gov/services/open-data.aspx>. Metro reserves the right to waive proof of Tennessee citizenship for copies of information publicly available on www.nashville.gov or Metro's Open Data portal at <http://www.nashville.gov/Government/Open-Data.aspx>.
- F. Prior public records requests and the records provided in response to them, as well as other public records, may be made publicly available online at <http://www.nashville.gov/Finance.aspx> or at the Open Data portal at <https://www.nashville.gov/services/open-data.aspx>. The PRRC may respond to a request by directing the requester to such publicly available information, if it includes the records responsive to that request. Requesters should note that their public records requests and the information submitted along with them are also public records and will be publicly available unless otherwise protected from disclosure by state or federal law.

III. Responding to Public Records Requests

- A. The PRRC shall review public record requests and make an initial determination of the following:
1. If the requester provided evidence of Tennessee citizenship;
 2. If the records requested are described with sufficient specificity to identify them, if practical; and
 3. If the Department is the custodian of the records.
- B. The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
1. Advise the requester of this Policy and the elections made regarding:
 - a. Proof of Tennessee citizenship;
 - b. Form(s) required for copies;
 - c. Aggregation of multiple or frequent requests, if appropriate.
 2. If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:
 - a. The requester is not, or has not presented evidence of being, a Tennessee citizen.
 - b. The request lacks specificity, if it can be determined by the PRRC.

The following steps will be taken by the PRRC for closing a request which lacks specificity:

The PRRC shall upon first contact with the requesting party ask for additional information in order to establish specificity and clarity needed to fulfill the request, including a deadline of two weeks for response (unless otherwise extended) and a notice that the request will be closed if a response is not received within the given timeframe.

If the requesting party does not respond within the given timeframe, the request will be closed/denied, and the requesting party will be notified in writing.

- c. An exemption makes the record not subject to disclosure under the TPRA. PRRC will provide the exemption basis in a written denial. If the PRRC is uncertain that an applicable exemption applies, the custodian may consult with Metro Legal/counsel.



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- d. The Department is not the custodian of the requested records.
- e. The records do not exist.
- f. The PRRC shall notify the requester in writing of any denial of a public records request.

C. The Department of Finance will have an appointed PRRC at all times.

D. Promptness Required

- 1. The PRRC shall promptly make requested public records available in accordance with Tenn. Code Ann. § 10-7-503. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then the PRRC shall, within seven (7) business days from receipt of the request, send the requester a composed response in writing, based on the processes developed by the OORC and prescribed above.
- 2. If the PRRC reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for inspection, the records custodian shall notify the requester in writing that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requester to see if the request can be narrowed.
- 3. If the PRRC discovers records responsive to a records request were omitted, the PRRC should contact the requester concerning the omission and produce the records as quickly as practicable.

E. Redaction

- 1. If a record contains confidential information or information that is not open for public inspection, the PRRC shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the PRRC should coordinate with Metro Legal/counsel or other appropriate parties regarding review and redaction of records.
- 2. When requested by a requester, the PRRC should provide the requester with a general statement of the bases for redaction(s) within the records provided. The bases given for redactions shall be general in nature and not disclose confidential information.

IV. Inspection of Records

- A. There shall be no charge for inspection of open public records unless otherwise provided for under state or federal law.
- B. The location for inspection of records will be 1 Public Square, Suite 107, Nashville, TN 37201 or an alternate location if designated by the PRRC. The PRRC will advise the requester of the location where the records can be inspected.
- C. When an appointment is required for inspection of requested public records, the appointment will be during normal business hours and should be at a mutually agreeable time for the requester.

V. Copies of Records

- A. The PRRC shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.



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- B. At the discretion of the PRRC, where possible, the responsive records may be emailed to the requester.
- C. Copies, whether hard copies or in electronic form, such as on a CD or flash drive, depending on what is easiest for the PRRC, will be available for pickup at a location specified by the PRRC.
- D. Upon payment for postage and copies, copies will be delivered to the requester's preferred or home address by the United States Postal Service. Additional permitted means of delivery may be utilized at the discretion of the PRRC, as appropriate.
- E. A requester inspecting records will be allowed to photograph records with a smart phone or camera, although such photographs of records will not be eligible for certification as certified copies, but, for cybersecurity reasons, under no circumstances may a requester insert a personal flash drive or other storage device into any Metropolitan Government computer.* The use of any other device is at the discretion of the PRRC which decision shall be made based on considerations such as security or the burden imposed on the Department. A requester may obtain electronic copies of records on a flash drive or CD provided by the Department, which copies and media will be provided consistent with the provisions of Section VI of this Policy, below.

* A department hosting the inspection of electronic records on a Metropolitan Government computer shall, in consultation with ITS, if necessary, lock down the computer that is going to be used for the inspection so as to prevent someone being able to use a flash drive to copy information. Any DVD drive on the computer shall be either disabled or removed entirely to prevent its use. While it may be necessary for the computer on which the inspection will occur to be connected to the network for the purposes of retrieving the records to be inspected, after that is done but prior to the inspection it shall be disconnected from the network.

VI. Fees and Charges and Procedures for Billing and Payment

- A. Records shall be produced using the most cost-efficient method(s).
- B. Requesters can be charged \$0.15 per page (8 ½" x 11" or 8 ½" x 14" paper) for black and white copies. For documents in color, requesters shall be advised that color copies are available at a higher charge than black and white copies. If the requester then requests a color copy, the requester can be charged \$0.50 per page (8 ½" x 11" or 8 ½" x 14" paper). Duplex copies (copies on both sides of a page of paper) are charged as two (2) separate copies. These charges are designed to cover the cost to the Department for copies of records maintained and provided to requesters. This is a reasonable amount that reflects the cost to the government based upon the average cost for the copy machine, paper and supplies, and overhead costs and is also an amount equal to or less than the amount adopted by the Office of Open Records Counsel of the State of Tennessee as a reasonable cost for producing a copy of a public record. Should the Department use other media such as a flash drive, CD, etc. in order to fulfill a request, the Department reserves the right to charge the cost of the media medium to the requester.
- C. The Department can charge the requester for employee labor that is reasonably necessary to produce the requested records. However, no charge shall accrue for the first one (1) hour incurred by personnel in producing the requested material. Costs are charged based on the hourly wage of the employee(s) (not including benefits). For salaried employees, the hourly wage is determined by dividing the employee's annual salary by the required hours to be worked per year (salary/ [52 weeks per year x hours worked per week]). The PRRC shall determine the number of hours each employee spent producing a request and then subtract one (1) hour from the highest paid employee. The PRRC will then multiply each employee's hourly wage by the total number of labor hours worked by that employee. Finally, the total labor hours for all employees will be added together to determine the total labor amount to charge.
- D. Requesters will retrieve requested records by hand delivery when they return to the PRRC's office. If the requester requests delivery by means of the United States Postal Service, or through any other



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delivery means agreed to by the PRRC, costs incurred in delivering the copies will be assessed in addition to other permitted charges. The requester shall pay the costs before the copies are provided to the requester.

- E. The PRRC shall establish a written schedule of charges for special copies of records that are not maintained or provided on 8 ½" x 11" or 8 ½" x 14" paper if the actual cost of providing such record exceeds \$0.15 per page for black and white copies or \$0.50 per page for color copies.
- F. The estimated cost of providing copies requested shall be calculated by the PRRC and explained to the requester, unless the requester waives his/her right to receive this estimate. Should a requester cancel the public records request, to the extent costs have been incurred by the Department, the requester shall be responsible for paying the costs incurred, if the requester has agreed in writing to make the payment as set out in this section, and as explained to the requester before the copies are made. The requester has a right to waive his/her right to an estimate of charges.
- G. The PRRC has discretion to reduce or waive payment of costs if the requesting party is indigent or if the administrative cost of collecting the payment is greater than the cost of providing the copies. A decision to reduce or waive costs shall be made in such manner so as to be in the best interests of the Metropolitan Government, shall be in compliance with all federal, state, and local laws, shall be made with complete impartiality and shall not be made in a way to give the appearance of preferential treatment.
- H. Where it is not practical or possible for the department's copying equipment to prepare the copies of the records requested, the PRRC shall immediately notify the requester. The requester may then request the PRRC to determine and advise the requester of the estimated cost to commercially reproduce a copy of the records. After the requester pays the estimated commercial reproduction costs, the PRRC shall arrange the commercial reproduction of the documents for the requester. The requester shall pay any costs exceeding the estimated cost before the copies are provided to the requester.
- I. Where it is not practical or possible for the department's staff to prepare the copies within the time frame the requester needs, the PRRC shall immediately notify the requester. The requester may then request the PRRC to determine and advise the requester of the estimated cost to commercially reproduce a copy of the records. After the requester pays the estimated commercial reproduction costs, the PRRC shall arrange the commercial reproduction of the documents for the requester. The requester shall pay any costs exceeding the estimated cost before the copies are provided to the requester.
- J. Where the PRRC will be assessed a charge to retrieve requested records from archives, or any other entity having possession of the requested records, the PRRC shall immediately notify the requester. After the requester pays the estimated retrieval costs, the PRRC shall arrange for the retrieval and reproduction of the documents for the requester. The requester shall pay any costs exceeding the estimated cost before the copies are provided to the requester.
- K. The Department shall give the requester the option of receiving information in any format in which it is maintained by the Department, including electronic format consistent with Tennessee Code Title 10, Chapter 7, Part 1.
- L. When large-volume requests are involved, the Department shall provide the information in the most efficient and cost-effective manner, including but not limited to permitting the requester to provide copying equipment or an electronic scanner when reasonable.
- M. Public Officials shall not be charged for copies of records where the total cost prescribed for copies of public records does not exceed twenty-five (\$25.00) dollars. The PRRC may waive any or all payment by Public Officials where the waiver is in the best interest of the Metropolitan Government.

VIII. Aggregation of Frequent and Multiple Requests



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- A. At the discretion of the PRRC the Department may aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).
- B. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.
- C. Routinely released and readily accessible records excluded from aggregation include, but are not limited to: www.nashville.gov, Metro's Open Data portal, Municode, etc.

Effective Date

This Policy Statement shall become effective upon issuance and shall be applied to all Metro departments and agencies.

Approvals

Approval of the Director of Finance

I hereby approve this Policy Statement of the Department of Finance and as such agree with and authorize the actions necessary to implement its requirements.

Kevin Crumbo

Director of Finance

Date: April 16, 2021