

NEW SECTION

**WAC 247-12-015 Authority and purpose.** (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying non-exempt "public records" in accordance with published rules. The act defines "public record" at RCW 42.56.010(3) to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.010(3) excludes from the definition of "public record" the records of volunteers that are not otherwise required to be retained by the agency and which are held by volunteers who do not serve in an administrative capacity; have not been appointed by the agency to an agency board, commission or internship; and do not have a supervisory role or delegated authority. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures the Washington health care facilities authority (authority) will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the authority and establish processes for both requestors and authority staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the authority will be guided by the provisions of the act describing its purposes and interpretation.

NEW SECTION

**WAC 247-12-025 Agency description—Contact information—Public records officer.** (1) The Washington health care facilities authority (authority) acts as a conduit to allow nonprofit health care providers access to the tax-exempt municipal bond market. The authority's central office is located at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501.

(2) Any person wishing to request access to public records of the authority, or seeking assistance in making such a request should contact the public records officer of the authority:

Public Records Officer  
Washington Health Care Facilities Authority  
410 11th Avenue S.E.  
Olympia, WA 98501  
Telephone: 360-753-6185  
Fax: 360-586-9168  
E-mail: whcfarecords@whcfa.wa.gov

Information is also available at the authority's website at <http://www.whcfa.wa.gov>.

(3) The public records officer will oversee compliance with the act but another authority staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the authority will provide the "fullest assistance" to requestors; create and maintain for use by the public and authority officials an index to public records of the authority; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the authority.

## NEW SECTION

**WAC 247-12-035 Availability of public records.** (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the Washington health care facilities authority (authority), Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the offices of the authority. Many public records are also available for inspection and copying on the authority's website at any time, at no cost.

(2) **Organization of records.** The authority will maintain its records in a reasonably organized manner. The authority will take reasonable actions to protect records from damage and disorganization. A requestor shall not take authority records from authority offices without the permission of the public records officer or designee. A variety of records is available on the authority's website at <http://www.whcfa.wa.gov>. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

(3) **Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the authority should make the request in writing on the authority's request form or through an online portal, or by letter, fax, or email addressed to the public records officer at the email address publicly designated by the authority, or by submitting the request in person at Washington health care facilities authority at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, charges for copies are provided in a fee schedule attached hereto; available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and online at <http://www.whcfa.wa.gov>.

(c) A records request form is available for use by requestors at the office of the public records officer and online at <http://www.whcfa.wa.gov>.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

(e) If requestors refuse to identify themselves or provide sufficient contact information, the agency will respond to the extent feasible and consistent with the law.

## NEW SECTION

### **WAC 247-12-045 Processing of public records requests—General.**

(1) **Providing "fullest assistance."** The Washington health care facilities authority (authority) is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records.

(3) **Acknowledging receipt of request.** Following the initial evaluation of the request under subsection (2) of this section, and within five business days<sup>1</sup> of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying including:

(i) If copies are available on the authority's internet website, provide an internet address and link on the website to specific records requested;

(ii) If copies are requested and payment of a deposit for the copies, if any, is made or other terms of payment are agreed upon, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available (the public records officer or designee may revise the estimate of when records will be available); or

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of time the authority will require to respond to the request if it is not clarified.

(i) Such clarification may be requested and provided by telephone, and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the authority need not respond to it. The authority will respond to those portions of a request that are clear; or

(d) Deny the request.

(4) **Consequences of failure to respond.** If the authority does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the public records officer to determine the reason for the failure to respond.

(5) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the 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, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(6) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the authority believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(7) **Inspection of records.**

(a) Consistent with other demands, the authority shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within 30 days of the authority's notification to him or her that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the authority may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(8) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying. Where the authority charges for copies, the requestor must pay for the copies.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the authority

has completed a reasonable search for the requested records and made any located nonexempt records available for inspection.

(11) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request, or fails to clarify an entirely unclear request, 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 authority has closed the request.

(12) **Later discovered documents.** If, after the authority has informed the requestor that it has provided all available records, the authority becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Note: <sup>1</sup>In calculating the five business days, the following are not counted: The day the agency receives the request, Saturdays, Sundays, and holidays. RCW 1.12.040. See also WAC 44-14-03006.

## NEW SECTION

**WAC 247-12-055 Processing of public records requests—Electronic records.** (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the Washington health care facilities authority (authority) and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by RCW 42.56.120, 42.56.130, and WAC 247-12-070. The fee schedule is available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and <http://www.whcfa.wa.gov>.

(3) **Customized electronic access services.** While not required, and with the consent of the requestor, the authority may decide to provide customized electronic access services and assess charges under RCW 42.56.120 (2)(f). A customized service charge applies only if the authority estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other purposes. The authority may charge a fee consistent with RCW 42.56.120(3) for such customized access. The fee schedule is attached hereto; available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and online at <http://www.whcfa.wa.gov>.

NEW SECTION

**WAC 247-12-065 Exemptions.** (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by Washington health care facilities authority (authority) for inspection and copying:

- Records protected under the attorney-client privilege. (RCW 5.60.060 (2) (a)).
- Certain confidential personal information maintained on borrowers or applicants. See RCW 42.56.230(5) (exempting financial information from disclosure).
- Lists of individuals to be used for commercial purposes (RCW 42.56.070(8)).
- Certain confidential personal information maintained on employees, appointees, or elected officials to the extent disclosure violates the individual's right to privacy (RCW 42.56.230(3)).
- Records relevant to a controversy and protected under the work product doctrine (RCW 42.56.290).

(2) The authority is prohibited by statute from disclosing lists of individuals for commercial purposes.

NEW SECTION

**WAC 247-12-075 Costs of providing copies of public records.** (1) **Inspection.** There is no fee for inspecting public records, including inspecting records on the Washington health care facilities authority (authority) website.

(2) **Statutory default costs.** The authority is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: The authority does not have the resources to conduct a study to determine actual copying costs for all its records; to conduct such a study would interfere with other essential agency functions; and, through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Public Records Act including RCW 42.56.120 and other laws. Therefore, in order to implement a fee schedule consistent with the Public Records Act, it is more cost efficient, expeditious and in the public interest for the authority to adopt the state legislature's approved fees and costs for most of the authority records, as authorized in RCW 42.56.120 and as published in the agency's fee schedule.

(3) **Fee schedule.** The fee schedule is attached hereto; available at 410 11th Avenue S.E., Suite 201, Olympia, Washington 98501 and on-line at <http://www.whcfa.wa.gov>.

**Washington Health Care Facilities Authority  
Public Records Fee Schedule  
Per the State of Washington's Public Records Act, RCW 42.56.120**

Type of Record	Fee
Photocopy of standard sized (8 1/2 x 11) paper records, or printed paper copies of electronic records.	15 cents per page (each side is one page)
Digital storage media or devices; any container or envelope used to mail copies; postage or delivery charges.	Actual cost
Nonstandard (oversized copies, photographs, etc.)	Actual cost
Records for which other costs are authorized pursuant to laws outside chapter 42.56 RCW. RCW 42.56.130.	Cost varies – per other statutes
Records sent to an outside vendor due to their unusual size or format, or other factors making copying by office unfeasible. Mailing/delivery and container costs also apply.	Actual cost
Data compilations prepared or accessed as a customized service. Cost is in addition to above fees for copies, including mailing/delivery and container costs. RCW 42.56.120(3).	Actual cost
Electronic transmittal of files	5 cents for every four files
Electronic transmittal of records	10 cents per gigabyte
Scanned paper records	10 cents per page (each image is one page)
Records on authority website	No charge
Records inspected in authority offices	No charge
Any other record not described above	Actual cost
<b>Guidelines for Waiving Fees and Arranging for Payment of Public Records</b>	
<p>The authority fee schedule applies to all public records made under chapter 42.56 RCW.  Fees are automatically waived when the total response is less than \$50.  The public records officer will produce an invoice and a deadline for payment.  Payment may be made by check or money order payable to the Washington health care facilities authority.  The authority has no ability to accept credit or debit card payments.</p>	

(4) **Processing payments.** Before beginning to make the copies or processing a customized service, the public records officer or designee may require a deposit of up to 10 percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The authority will not charge sales tax when it makes copies of public records.

(5) **Costs of mailing.** The authority may also charge actual costs of mailing, including the cost of the shipping container.

(6) **Payment.** Payment may be made by check or money order to the authority.

(7) **Fee waivers.**

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and the total cost of the entire request is less than \$50; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments; or

(iii) The records responsive to an entire request are a combination of paper copies and digital copies.

(b) If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

NEW SECTION

**WAC 247-12-085 Review of denials of public records.** (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer or designee shall promptly provide the petition and any other relevant information to the agency executive director. The authority will, within two business days following receipt of the petition for review, respond with an estimate of time to consider the matter. Following such review, the executive director will either affirm, reverse, or amend the denial.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the authority denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 247-12-010	Purpose.
WAC 247-12-020	Definitions.
WAC 247-12-030	Public records available.
WAC 247-12-040	Public records officer.
WAC 247-12-050	Office hours.
WAC 247-12-060	Requests for public records.
WAC 247-12-070	Copying.
WAC 247-12-080	Exemptions and denials of requested public records.
WAC 247-12-090	Review of denials of public records requests.
WAC 247-12-100	Protection of public records.
WAC 247-12-101	Records index.