



**COMMUNICATIONS PERSONNEL
POLICY/PROCEDURE**

Policy No.	285.80	Date Issued:	August 15, 2024
Section:	200 – Administrative Policies	Date Revised:	
SUBJECT: PROCEDURE FOR FULFILLING PUBLIC RECORDS REQUESTS			
APPROVED:	<u><signed copy on file></u> Board Chairperson		

1.0 Policy

The purpose of this policy is to provide information and procedures for Authority employees to follow in managing request for inspection of or copies of records under the California Public Records Act (CPRA). This policy is to be read consistently with, and interpreted in conformance with, the regulations and definitions contained in the California Public Records Act, set forth at Government Code section 6250 *et seq.* Any questions regarding interpretation of this policy should be directed to the Attorney for the Authority, who may consult with appropriate attorneys for Member and User Agencies.

The CPRA declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in California. In accordance with the CPRA, any person is entitled to inspect and to receive copies of the public records held by the Authority, unless an express exemption applies.

2.0 Custodian of Records

A member of the Management Team shall be designated as the Custodian of Records. The Custodian of Records shall receive initial training on CPRA principles, issues, and obligations, and maintain knowledge by reviewing CPRA materials at least annually and attending available training when necessary.

- 2.1 The Custodian of Records or their designee(s) shall receive, manage, and respond to public records requests and ensure the Authority’s response complies with deadlines and obligations of the CPRA.

3.0 Procedure

3.1 Receiving Records Requests

3.1.1 Public records are open to inspection at all times during the hours that Authority offices are open for business, and every person has a right to inspect any disclosable public record subject to the Authority's right to protect the security and integrity of Authority and User Agency records. If a record can be divided into disclosable and non-disclosable portions, the non-disclosable portions should be redacted and the disclosable portions produced for inspection.

3.1.1.1 In the interest of transparency, many common documents such as policies and procedures, collective bargaining agreements, and salary schedules, are published on the Authority's public-facing website.

3.1.2 Public Records Requests may be made as an oral request or written request in person, by telephone, or via electronic communication such as an e-mail or website form. Staff may not require a requester to put the request in writing. If an oral request is complicated, the receiving employee should document the request in writing. If possible, staff should obtain agreement from the requester that the request is accurate as documented.

3.1.3 Requesters are not required to provide a reason for the request except under very limited circumstances explicitly allowed under the Government Code.

3.1.4 Public-facing staff may refer requesters to the Custodian of Records when such referral does not provide unnecessary delays or impediments to the requester.

3.2 Logging the Request

3.2.1 Staff accepting a records request shall notify the Custodian of Records of the request.

3.2.2 The Custodian of Records or their designee(s) will update the Records Request Log with the date of the request, nature of the request, and the due date of the request.

3.2.3 The log will be maintained to document when the request was fulfilled or to document if it was not fulfilled and the reason why it was not fulfilled.

3.3 Assisting the Public and Clarifying the Request

- 3.3.1 All requests for public records must be specific and focused enough to allow the Authority to identify the information being requested. If the request is unclear, overly broad, or unduly burdensome based on the way the request is drafted, staff should respond to the requester to ask that the request be clarified. Under the CPRA, the Authority has a duty to assist the public in making effective requests for records. Staff can satisfy this duty by following the procedure below.
- 3.3.2 When a person requests to inspect or obtain a copy of a public record, staff shall assist the person to make a focused and effective request that reasonably describes an identifiable public record. This includes, to the extent reasonable under the circumstances:
 - 3.3.2.1 Assisting the person to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - 3.3.2.2 Describing the information technology and physical location in which the records exist; and
 - 3.3.2.3 Providing suggestions for overcoming any practical basis for denying access to the records or information sought.
- 3.3.3 Oftentimes requesters ask for “all” records, communications, or files regarding a subject matter when they are really only looking for specific documents, or documents produced within a specific date range. These requesters do not realize that drafting requests in such a broad manner results in a waste of time and money, as well as an over-production of materials that are not wanted. Where a CPRA request is not naturally narrow and specific, staff should interact with the requester to explain the process, the practice of recovering direct costs of providing records to the requester pursuant to Government Code section 6253(b), and the desire to get the person what they are really looking for. In order to do this, one might ask the requester:
 - 3.3.3.1 “Can you narrow the scope of this request to a specific date range?”
 - 3.3.3.2 “Can you think of any keywords I could use to search for this?”
- 3.3.4 Note that a requester is not required to agree to a suggested restriction; alternatively, the requester may agree to a restriction initially but may make another, broader request later. Any questions or concerns regarding whether a request is overly broad or unduly burdensome should be referred to the Attorney for the Authority.

- 3.4 Deadlines for Responding: Whenever possible, documents should be produced for inspection or copying immediately upon request. However, as a practical matter, Authority staff may need time to identify and locate records and determine whether any exemptions apply. The deadlines associated with responding to a CPRA request take this issue into account and provide the Authority with extra time to identify and produce records depending on the complexity of the request.

- 3.4.1 Request Contact Information: If a record cannot be produced for inspection or copying immediately, staff should ask the requester for contact information in order to keep the requester updated about the production status. If the requester prefers not to provide contact information, give the requester the name, phone number, and email address of the Custodian of Records or their designee who can be contacted regarding the status of the request.
- 3.4.2 Ten-Day Letter: Within ten calendar days from the date the request is received, the Custodian of Records or their designee shall determine whether the request, in whole or in part, seeks copies of disclosable public records and shall notify the requester of what is available for production, any costs associated with the request, any applicable exemptions under which public records will be withheld, and the approximate date disclosable public records will be available.
- 3.4.2.1 The Authority and the requester may negotiate an agreement to extend the time for the Authority to issue the ten-day letter. Any such extension should be documented in writing.
- 3.4.3 Fourteen-Day Extension: In unusual circumstances, the ten-day notification requirement may be extended without negotiation by up to an additional fourteen days (for a total of 24 days). Any such extension must be documented in writing to the requester, and the notification must include the reason the extension is needed and the date on which a determination is expected to be made.
- 3.4.3.1 For purposes of this analysis, “unusual circumstances” means:
- 3.4.3.1.1 The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
 - 3.4.3.1.2 The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request. As some records in the Authority’s possession (Computer Aided Dispatch records for instance) are held on behalf of the Member and User Agencies, staff must consult with those Agencies to determine whether the records held by the Authority are a disclosable public record; or

3.4.3.1.3 The need to compile data related to existing records or write programming language or construct a computer report necessary to extract existing records.

3.4.4 Staff has a reasonable amount of time to produce the documents after determining whether documents will be produced. A “reasonable” amount of time is not defined by law but should be justifiable based on the scope of the request and the amount of disclosable records. Staff should communicate the approximate date disclosable public records will be available.

3.5 Determining Whether Responsive Records Exist

3.5.1 Conducting a Search: Upon receiving a CPRA request, the Custodian of Records, or their designee(s), shall determine whether responsive public records exist. As part of this effort, responsible staff must make reasonable efforts to determine all of the locations where responsive documents are likely to exist and determine the identity of the particular individuals likely to possess or maintain the responsive documents. The Custodian of Records must also make reasonable efforts to contact individuals likely to hold responsive records to determine whether they have responsive public records, including any records contained in non-Authority controlled locations such as private electronic media or mail accounts, private servers, or personal cell phones. All employees should remember that a public record maintains its inherent character as a public record regardless of where it is located.

3.5.1.1 In determining whether a record kept on a private device or private server is a “public record”, the Custodian of Records should consider several factors, including a) the content of the record; b) the context of the record; c) the purpose of the record; d) the audience; and e) whether the employee was acting within the scope of employment in preparing or receiving the communication.

3.5.1.2 If an employee responds that they have no responsive documents held on private accounts or devices, absent any contradictory information the Custodian of Records should accept the employee’s response and act accordingly.

3.5.1.3 If there are no responsive documents, the Custodian of Records is not required to create a document that contains the information requested.

3.5.2 Exemptions

3.5.2.1 In responding to a CPRA request, staff should distinguish between “public records” and “disclosable public records.” Just because a public record exists does not mean that it is disclosable. It is only a disclosable public record if it is not exempt from disclosure. For example, the CPRA contains exemptions for:

- Preliminary drafts, notes, memoranda not retained by the Authority in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure;
- Privileged legal writings and records pertaining to pending litigation;
- Personnel, medical, or similar files;
- Law enforcement investigatory records; and
- Many other specific topics (see Government Code section 6254 and succeeding sections).

3.5.2.2 Certain records, such as Computer Aided Dispatch (CAD) incident reports and 9-1-1 recordings, are held by the Authority on behalf of the Member and User Agencies. As such, it is necessary for staff to consult with those outside Agencies to determine whether any of the exemptions under the CPRA are applicable to those records.

3.6 Cost Recovery

Under Government Code section 6253(b), the Authority may charge for the “direct costs” of making and providing copies of an identifiable record.