

Zone 7 Water Agency's Public Records Guidelines



Objective:

To provide guidelines for staff concerning accessibility of Zone 7's records.

Background:

The Government Code provides a framework for open and transparent government meetings. The Public Records Act, Government Code section 6250, *et seq.*, guarantees public access to records except for those specifically exempted by law and describes a process for inspecting such records.

“Public Record” is defined by law to include any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by the Agency regardless of physical form or characteristics.

A “writing” for purposes of public access may be a handwriting, typewriting, printing, photo-stating, photograph, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or any combination thereof, regardless of the manner in which the record has been stored.

In other words, almost every paper or electronic document that is within the possession or control of Zone 7 is a “public record” that, with certain exceptions, must be made available to the public upon request.

Policy:

Zone 7's public records are open to inspection at all times during normal office hours at the North Canyons business office, 100 North Canyons Parkway, Livermore, California. Every person has the right to inspect any record except those records exempted by statute from public disclosure.

Procedure:

1. All requests to view or photocopy Agency records shall be forwarded to the Agency's Executive Assistant for processing.

2. When a member of the public requests the inspection of a public record, or requests a copy of a public record, and to the extent such records are not exempt, the Executive Assistant shall, to the extent reasonable, assist the individual in identifying records that are responsive, describe the information technology in which the record exists, and provide suggestions for overcoming any practical basis for denying access to the record.
3. To the extent identifiable public records exist in electronic format, and access to which is not otherwise restricted by law, and to the extent the information is not exempt from disclosure, the information shall be made available to the public in such format, but only if the production will not jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. The person requesting the information shall bear the cost of producing the record, including the cost to construct the record, and the cost of programming and computer service to produce the record when the Agency is requested to produce a copy of an electronic record that is produced only at otherwise regularly scheduled intervals or that requires data compilation, extraction, or programming to produce.
4. Upon receipt of a request for records, the Agency will:
 - (a) Respond by letter within ten days from the date of the request indicating whether the request seeks records that are within the scope of the Public Records Act, the estimated date that such records will be made available, and the estimated costs for photocopying requested records, if requested. It is the Agency's policy to respond formally to all requests for records so as to ensure the integrity of the Agency's records and the preservation of any confidential information.
 - (b) Indicate the time and place during which the inspection must be made and any conditions that may be imposed so as to protect the integrity of the Agency's records.
 - (c) Supervise and assist the requestor in reviewing the records.
 - (d) Provide copies upon request and after payment of the appropriate fees.
 - (e) Redact (black out) confidential information (e.g. personal data like social security numbers) or other information that the law prohibits Zone 7 from releasing.

5. The Agency may temporarily deny or restrict inspection of public records under the following circumstances:
 - (a) At the time of the request or at the time proposed for inspection/copying, the records are required by Agency staff in performing their duties.
 - (b) Other persons are inspecting or are waiting to inspect the records.
 - (c) The records need to be retrieved from storage.
 - (d) At the time proposed for inspection/copying, supervision of inspection of the records is not possible because of the unavailability of appropriate Agency personnel.
 - (e) A question exists as to the possible exemption of the record from disclosure and the matter must be referred to legal counsel for determination.
6. Any notification of denial of any request for records shall set forth the name and title or position of the Agency personnel responsible for the denial.

Fees:

A request for a copy of an identifiable public record, for information produced from such a record, or for a certified copy of such a record, must be accompanied by payment of the appropriate fee as determined by Agency staff based on the actual cost to the Agency. Any fee established may be modified from time to time by Agency staff to reflect actual chargeable costs, and any fee schedule developed shall be made available by the Agency's Executive Assistant.

Where the California Legislature has established a statutory fee for any given record, the statutory fee shall be charged.

Records Not Open for Inspection:

The following records are not open for public inspection:

1. Preliminary drafts, notes or inter-agency or intra-agency memoranda which are not retained by the Agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest of disclosure.

2. Records pertaining to pending litigation to which the Agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.
3. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
4. Geological and geophysical data, plant production data, and similar information, relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
5. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination.
6. The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the Agency relative to the acquisition of property, or the prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained.
7. Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.
8. Statements of personal worth or personal financial data required by the Agency acting in the capacity of a licensing agency and filed by an applicant with the Agency to establish his personal qualifications for the license, certificate, or permit he seeks.
9. Memoranda, correspondence, and writings submitted to the Agency or its Board of Directors by Agency's legal counsel pursuant to the attorney-client privilege.
10. The Agency is prohibited from allowing public access to "trade secrets." "Trade secrets" as used in this context may include, but is not limited to, any formula, plan, pattern, process, tool mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

11. Records pertaining to a utility customer, except to an agent or authorized family member of the customer in question, governmental or law enforcement agencies when appropriate, or unless disclosure is specifically required by law.
12. Documents related to Vulnerability Assessments.
13. Records that are otherwise exempt from disclosure under applicable state or federal law.
14. The Agency also possesses the discretion to claim an exemption in those instances where the public interest served by not making the record public clearly outweighs the public interest served by disclosure.