

POLICY NUMBER:

APM- 4-11

DATE:

2/2/15

ISSUED BY:

Daniel J. Alfonso
City Manager/Designee

Daniel J. Alfonso
SIGNATURE

CITY OF MIAMI



ADMINISTRATIVE POLICY

**REVISED
SECTION**

Created
Revised

REVISIONS

**DATE OF
REVISION**

8/29/2011
1/20/2015

SUBJECT:

PUBLIC RECORDS

Purpose

The City of Miami ("City") fully embraces the letter and spirit of the Public Records Act, Chapter 119, Florida Statutes, governing the public's right to access records held by the City, and the constitutional right of access guaranteed by Article I, s. 24(a), Florida Constitution. In support of the public's right to access such records, the City hereby establishes the following Public Records policy. The guidelines developed below are intended to set forth consistent policy and procedure, in compliance with the Florida Public Records Law, to safeguard the integrity of records and to provide the public access to non-exempt public records.

**Policy
Statement**

The City is committed to assisting the public in its right to inspect and obtain copies of Public Records pursuant to the Public Records Act, Chapter 119, Florida Statutes. It is the policy of the City to comply with Florida's Public Records Act and the State of Florida General Records Schedule GS1-FL for State and Local Government Agencies.

Definition

"Departmental Public Records Custodian" means the person designated by a department, office, agency, or board of the City who shall be responsible for complying with Public Records requests directed to their respective department, office, agency, or board and will function as a liaison and contact person with the City Attorney's Office.

"Exemption" means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of § 119.07(1) or § 286.011 of the Florida Statutes, or § 24, Art. I of the Florida Constitution.

“Public Records” means any and all documents, papers, letters, maps, books, tapes, photographs, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or **in connection with the transaction of official business** of the City.

Procedures

- A. Every City employee who has custody of a Public Record shall allow such Public Record to be inspected and/or copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision of the Departmental Public Records Custodian during the City’s normal business hours. Any City employee who receives a Public Records request shall immediately notify the Departmental Public Records Custodian of the request, even if they have already allowed the requested Public Record to be inspected and/or copied by the requestor and also notify the City Attorney’s Office Public Records Coordinator at PublicRecords@miamigov.com.
- B. Each City department, office, agency, and board shall designate a Departmental Public Records Custodian to coordinate the retrieval and review of Public Records related to that department, office, agency, or board. The Departmental Public Records Custodian receiving a Public Records request is required to timely acknowledge receipt of said request via email, phone call, or letter. If acknowledgment is done via phone call, the information when it was acknowledged and to who should be documented. Upon receipt of a Public Records request, the Departmental Public Records Custodian will notify the City Attorney’s Office Public Records Coordinator, by electronic mail at PublicRecords@miamigov.com, that a request was received and when it is complied with.
- C. A request to inspect or copy Public Records can be denied only under the authority of a specific statutory Exemption. If a Public Record contains both exempt and non-exempt information, that which is exempt must be redacted and the remainder of the Public Record must be provided to the requester. If requested by the person seeking to inspect or copy the Public Record, the Departmental Public Records Custodian shall state in writing and with particularity the reasons for the conclusion that the Public Record is exempt or confidential. The City Attorney’s Office can assist with the language.
- D. In the event a Public Records request is received that involves multiple departments, offices, agencies, or boards, each respective Departmental Public Records Custodian will be responsible for completing their respective portion of the request.

- E. Departmental Public Records Custodians are encouraged to consult with the City Attorney's Office to resolve questions relating to the exempt or confidential nature of Public Records and for general advice in complying with Public Records requests.
- F. Public Records requests involving ongoing or anticipated litigation should be submitted to the City Attorney's Office prior to disclosure to the Public Records requestor.
- G. Public Records requests that involve large amounts of data will be referred to the Information Technology ("IT") Department for the purpose of gathering and copying the requested information. The IT Department will thereafter provide the requested information to the Departmental Records Custodian who will be responsible for reviewing it for any exempt or confidential material prior to disclosure to the Public Records requestor. Anything involving city administrative hearings, litigation, or anticipated litigation must be reviewed by the City Attorney's Office.
- H. When the City Attorney's Office Public Records Coordinator is notified of a pending Public Records request, he will review to determine if further review of the responsive documents, prior to disclosure, is necessary by the City Attorney's Office (i.e. pending litigation, anticipated exempt documents, etc.) The City Attorney's Office Public Records Coordinator will be responsible for notifying the respective Departmental Public Records Custodian when such further review will be necessary.
- I. The City Attorney's Office should be contacted any time there is a concern, question, or issue that arises due to a Public Records request.

Generally, the following conditions will apply to Public Records requests:

- A. Individuals are not required to identify themselves or make the request in person, in writing or in any other particular format, nor give a reason for such request.
- B. A Public Records request may not be denied because of a lack of specifics in the request. If a request to inspect or copy Public Records is vague, the requestor can be asked to clarify the request.
- C. If any request is made orally, please document the request and read it back to the requestor to confirm understanding of the request.
- D. The City is not required to create a record that does not exist, including but not limited to, summaries, reports, exhibits, charts, or similar data.

- E. Departmental Public Records Custodians or clerical staff members are not required to verbally provide information from records nor answer questions. The statutory obligation of the City is to provide access to or copies of the Public Records being requested.
- F. Departmental Public Records Custodians or clerical staff members are not required to produce records in a particular form or format as demanded by the requestor, nor tailored to the requestor's specific needs, if the Public Records are not ordinarily created, filed, produced, maintained, or used in that form by the City.

Fees

The Public Records Act allows the City to collect a "per copy" fee or the actual cost for materials and supplies used to duplicate records. In addition, the City may collect a reasonable service charge when a request to inspect or copy Public Records requires the extensive use of technology resources and/or the extensive use of clerical or supervisory assistance.

A. The uniform fees for copies, per page, are as follows:

1. Copies:

- 14" x 8 1/2" or less, one-sided \$0.15
- 14" x 8 1/2" or less, two-sided \$0.20
- 11" x 17" \$0.25
- Green bar, computer \$0.25
- Greater than 11" x 17", one-sided \$1.00

2. Certified copies, per page, in addition to copy fee \$1.00

3. Audio Cassette Tapes, 90-minute, per tape \$1.00 + tax
plus the actual cost incurred by the City for the reproduction.

4. CDs, format-embedded, each \$5.00 + tax
plus the actual cost incurred by the City for the reproduction.

5. DVDs, format-embedded, each \$15.00 + tax
plus the actual cost incurred by the City for the reproduction.

B. Shipping Costs

If the City is requested to mail or ship records in response to a Public Records request, the City shall charge the actual cost of postage and shipping in addition to the actual cost of duplication and any applicable special service charge.

C. Dissemination

If the document exists in electronic format or can be sent electronically without any other fee requirements as listed above, then such document may be sent electronically without charge. If the requestor can be directed to a particular web link to review/search for the document requested, that also complies with the public records law.

D. Extensive Use Charges

If the nature and volume of Public Records requested to be inspected or copied requires: (1) extensive use of IT resources, as defined in §119.07(4)(d), Florida Statutes; (2) extensive clerical or supervisory assistance, including administrative, technical, and professional staff required to identify and retrieve requested records; or (3) review for documents that are exempt from disclosure, the City shall charge, in addition to the actual cost of duplication, a reasonable special service charge. This charge shall be based on the cost incurred by or attributable to the City for the extensive use of IT resources, the labor cost of the personnel, or both, in providing the service.

For the purposes of this APM the term “extensive” shall mean a time period longer than twenty (20) minutes, which shall include the time necessary to: determine whether the Public Record exists or is exempt from public disclosure; locate and retrieve the records; review the records for exempt information; duplicate the records; and return the records to their appropriate files.

Any such special service charge shall be estimated at the time of the request and computed to the nearest quarter of an hour exceeding twenty minutes. It shall be based upon the current hourly rate of pay for the persons who will perform the service. The City shall determine the appropriate employee(s) for fulfilling a Public Records request. Whenever possible, staff shall utilize the lowest cost employee capable of responding to the request.

An estimate of the charge/costs shall be given to the requestor before the research is begun and to determine if the requestor wants to pay the fee for the materials requested. The estimated costs of extensive research and copying must be paid in advance. Any difference will be collected or refunded when materials are picked up by the requestor.

The person making the request must pay all prescribed fees at the Cashier's Office on the 4th floor of the Miami Riverside Center (MRC) building and receive a receipt prior to receiving the records. Once the receipt is presented to the Departmental Public Records Custodian for the records, the records can be released to the requesting party.

Responsibility

This APM applies to every employee of the City. Failure to abide by the terms of this APM may be cause for disciplinary action, including termination, in addition to any statutory penalties.

Please contact the City Attorney's Office with any questions, comments, or concerns.
