

**MATANUSKA-SUSITNA BOROUGH****POLICY/PROCEDURE****P&P No.**

14-PUB

Effective Date:

November 1, 2014

Supersedes:Public Records Request
12-PUB**Dated:**

October 20, 2014

Sponsoring Officer:**SUBJECT:****PUBLIC RECORDS REQUEST****Approved By:**Borough Manager
HR Manager**I. PURPOSE**

The Matanuska-Susitna Borough code, public records policy, and procedures, ensure that citizens have access to public records and that the public's right to remain informed is protected.

II. POLICY STATEMENT

The production of public records should be consistent with MSB 1.50.005-1.50.060, and state and federal law. Employees should familiarize themselves with the applicable provisions of Borough code.

Requests for access to public records shall be accepted during regularly established business hours, excluding holidays, and directed to the appropriate division or department.

Public records are located in all departments of the Borough. As a result, processing a public records request may entail an employee coordinating with multiple departments or other entities to ensure a request is properly fulfilled. All employees, regardless of whether they are the employee fulfilling the request, have an obligation to facilitate the process. Thus, employees should timely respond to requests from other employees for records.

Access includes the right to inspect the requested records, to receive copies of the records, or both.

Whenever possible and if the records are not exempt from production because they are non-public records (i.e. they are confidential or privileged), the records should be provided immediately, reducing the amount of time and paperwork involved in processing the request and enhancing the public perception of the Borough and its employees.

AS 40.25.110 states that if the production of records for one requester in a calendar month exceeds five personnel hours, the Borough shall require the requester to pay the personnel costs as required during the month to complete the search and copy tasks. The personnel costs may not exceed the actual salary and benefit costs for the personnel time required to perform the search and copy task. As a result, employees that are involved in the search and copy tasks associated with a public records request should keep a record of the time that it takes to so process it.

Large public records requests may take a substantial amount of time to fulfill. As a result, it is prudent for the employee filling the request to collect the costs in advance of conducting the search to fulfill the requests. Projected costs of \$50 or less may be paid at the time the records are provided to the requester. Projected costs exceeding \$50 shall be paid in advance. The difference between actual and projected costs will be paid or refunded at the time the records are provided.

The Borough will not charge for a copy of a public record required by the Department of Military and Veterans Affairs, the Department of Community and Economic Development, or by

the United States Department of Veterans Affairs to be used in determining the eligibility of a person to participate in benefits (see AS 40.25.121).

III. PROCEDURE

Department Directors will ensure that this policy is communicated and followed. Failure of employees to comply with the Public Records Request Policy may be grounds for disciplinary action.

A. Easily obtained records that have been approved for immediate production without requiring a requester to fill out a public records request form.

The manager and directors have approved a list of public records that are easily located within the Borough. The form is attached to this policy as the MSB List of Readily Available Records. Each department will be responsible for ensuring that only the records on the list are reproduced under this procedure. In addition, the following general procedure should be followed:

Implementation/Enforcement Step
1. Determine if the records requested are listed on MSB List of Readily Available Records. If so, have the requester fill out a Public Records Request form.
2. If the requester has requested copies of the records, provide them with the MSB Copy Order Form so that they are familiar with the cost of reproduction. Direct to Collections for payment.
3. Gather records and make a copy for TRIM.
4. Provide the copies to the requester upon presentation of the payment receipt.

B. Records that take time to locate. The following general procedures should be followed:

Implementation/Enforcement Step
1. Provide the requester a Public Records Request form to be completed and date stamp when received.
2. Review the form to determine if you need clarification on the description of the records being requested. If additional clarification is needed, ask the requester. Make a record of the conversation for your file.
3. Advise the requester that there is no charge to inspect the records, but that reproduction costs are listed on the MSB Copy Order Form, and that any search and copying time that exceeds 5 hours per month will be charged to the requester at the employees' burdened rate.
4. If the requester's form states that they are seeking records from more than one department, send the request to Administration to process and track. Otherwise, your department is responsible for producing records and completing all steps.
5. Send final request with all documents to the Law department for review.

C. Records that take time to locate within multiple departments. The following general procedures should be followed by Administration when appropriate:

Implementation/Enforcement Step for Administration
1. Date stamp request form upon receipt. Administration will determine which other departments and/or individuals/consultants

may have records responsive to the request. Email the Department Directors and their administrative assistants in order to obtain the pertinent information. Ask them to provide you an estimate on how much time it will take to conduct the search and include an expected date.

Add up the total amount of the time the search is anticipated to take. If it is anticipated the request will exceed 5 hours or \$50 (based on the employees burdened wage information from finance), and estimate the cost.

2. Prepare a quote including the information for the requester and then call/e-mail the requester for approval to proceed. Once fee is collected, proceed with request.

3. Gather the requested records. Correspond with those individuals you determined could have records responsive to the request. Request they conduct the search. Remind them to keep track of the actual time it takes to conduct the search for the records. The request should be responded to within 10 business days.

4. Make a copy of the unmodified records. Keep track of the time it takes you to make copies.

5. Send a copy of the Public Records Request form to the Law Department for review. The Law Department will return them to you to finalize the request.

6. Records that are exempted under Borough code (i.e. confidential or privileged) will be redacted or removed completely if necessary. Make another copy of the redacted records so that you have a complete copy of the records you intend to distribute.

7. Complete the Borough’s Public Records Request form and the Reply to Your Public Records Request and Notice of the Right to an Administrative Review, ensuring the form is complete.

8. If your search did not locate any documents, calculate the total time the record search tasks entailed and charge the fee if applicable.

9. Scan a copy of the Public Records Request form, the Borough’s Public Records Request Form, and the Reply to your Public Records Request and Notice of Right to an Administrative Review form that were provided to the requester into TRIM for tracking purposes.

D. When a request for reconsideration is submitted to the Manager’s Office. The following procedure should be followed:

Implementation/Enforcement Step
1. Present the reconsideration request to the Borough Manager.
2. If the basis of the appeal is a lack of any responsive documents, review a copy of the Public Records Request form and all accompanying documents.
3. If the basis of the appeal is different from #2 above, ensure you have access to (1) a complete copy of the original records, (2) a complete copy of the redacted/withheld documents provided to the requester, (3) the Public Records Request form and all accompanying documents..
4. Send to the Law department for final review.
5. Provide a response to the request within 10 business days. Ensure that it states this is “a final decision and that you, the appellant, have a right to appeal the Manager’s decision to the superior court pursuant to AS 40.25.124 within 30 days from the date the decision was mailed or distributed to you.”

E. Court orders to produce records.

If an employee, officer, or volunteer receives a court order (subpoena) to produce records and documents, the court order shall be delivered to the department director. It shall be reviewed in consultation with the Borough Attorney prior to releasing any information.

IV. ORGANIZATION AFFECTED

This policy is a Borough-wide policy. The Borough's employees, officials, and volunteers are required to comply with the requirements for providing public access to information except as specifically excluded by MSB 1.50.040, or other provisions of municipal, state, or federal law.

V. REFERENCES

AS 40.25.100-40.25.350

MSB 1.50.005-1.50.060

VI. DEFINITIONS

Borough is defined as the Matanuska-Susitna Borough.

See MSB 1.50.050

VII. RESPONSIBILITIES

Department Directors shall ensure that their department staff follows the procedure set forth in this policy.

Compliance with this policy is the responsibility of all Borough employees.

A copy of this policy document shall be posted in a conspicuous manner at the place designated for inspection of each department's or agency's documents, per MSB 1.50.050(B). All department directors and supervisors shall ensure that this policy is enforced.

VIII. REVIEW

The Administration Department will be the policy holder, and will review the Public Records Request policy for necessary updates to establish that document content is current. Review will take place periodically.

IX. APPENDIX

MSB Copy Order Form

MSB List of Readily Available Records

Public Records Request Form

Reply to Public Records Request and Notice of the Right to an Administrative Review Form