HOW QUICKLY DO I HAVE TO RESPOND?

The PRA states that copies of records shall be made available "promptly". Thus for routine requests of undoubtedly "public" records, you should produce the record(s) without delay.

If the request is not simple or routine, the PRA gives local agencies up to ten days to determine whether it will comply with the request. The requestor must be notified "immediately" what the determination is within the ten day period. In "unusual circumstances" this ten day period can be extended by another fourteen days only upon written notice from the agency head setting forth the reasons for the extension and the date he or she expects to make the determination.

WHAT IF THE REQUST SEEKS INFORMATION THAT IS NOT CONTAINED IN A PARTICULAR RECORD?

Local agencies are not required to create documents to respond to a records request or to answer specific questions. However if information is stored electronically, then it must be produced in the format in which the agency holds the information.

ARE THERE ANY RECORDS THAT ARE CONFIDENTIAL?

Yes. The PRA generally permits an agency to withhold from inspection personnel records; investigative records; certain notes, drafts or memoranda; and writings made confidential by state or federal law, such as attorney-client communications, just to name a few.

Whether these or other exclusions apply to a particular request should be determined only in consultation with the City Attorney's Office.

CAN I DESTROY RECORDS TO AVOID PRODUCING THEM?

Definitely not. City records may only be destroyed pursuant to each agency's records disposition schedule.

If you have further questions, please contact:

Public Ethics Commission

1 Frank H. Ogawa Plaza, 4th Floor
Oakland, Ca 94612
Phone (510) 238-3593
Fax (510) 238-3315
ethicscommission@oaklandnet.com

City Attorney's Office

1 Frank H. Ogawa Plaza, 6th Floor
Oakland, Ca 94612
Phone (510) 238-2965
Fax (510) 238-6500
oaklandcityattorney.org

Handling Public Records Requests

(Hint: It's Easier than You Think!)

Public Ethics Commission

FAIRNESS
INTEGRITY
HONESTY
OPENNESS

City of Oakland

Step One

RECEIVING A REQUEST After receiving a request to inspect or obtain copies of public records, take a moment to review carefully what is being requested. If you don't understand, seek clarification immediately from the requestor. If the requestor isn't sure what he or she wants, or doesn't know how to ask for it, the Public Records Act (PRA) requires us to provide assistance.

Step Two

TIMELINE FOR PRODUCING RECORDS Once you are clear about what the requestor wants, decide whether you will be able to produce the records "promptly" or whether you will need more time to comply.

For simple and/or routine requests, the records should be produced immediately; no more than a few hours or days after the request is made.

For requests that will require more than a few days to respond, let the requestor know, preferably in writing, when the records will be available.

Step Three

DELAYS OR DENIALS If you are not sure whether you can promptly comply with the request, or the request involves records that might be confidential, you must notify the requestor *in writing* no later than ten days after receipt of the request of your ultimate answer. If you decide you can provide the records, identify in your letter the date when the records will be produced. If you decide you can't provide the records, you must cite in the letter the legal authority justifying why the records will not be provided. Obviously you should contact the City Attorney's Office for help with this step.

QUESTIONS OR DOUBTS?

If you have any questions or doubts about whether the request involves a confidential public record, contact the City Attorney's Office immediately. Advise the City Attorney representative when the request was received so he or she is aware of any deadlines.

MINIMIZING DISRUPTIONS AND MISUNDERSTANDINGS

Stay in touch with the requestor. Most complaints are caused when a record request is forgotten, ignored or allowed to "fall through the cracks." Let people know that you are taking steps to respond, even if the records may take a while to produce.

Maintain orderly files. Public records requests can become difficult when the records you are seeking are not where they are supposed to be. If you do not have a files management policy for your office, contact the Office of the City Clerk's Records Management Officer who can assist you.

FREQUENTLY ASKED QUESTIONS

WHO CAN MAKE A REQUEST FOR PUBLIC RECORDS? *Anyone can make a request to inspect or to obtain copies of a public record.*

CAN I ASK WHY THEY WANT THE RECORDS?

No. However, it is appropriate to ask for clarification of what they are seeking. The PRA requires local agencies to provide assistance to requestors in identifying public records and in overcoming any practical problems that may limit access.

WHAT RECORDS MUST BE PRODUCED?

The PRA defines a "public record" as any writing related to the conduct of the public's business "prepared, owned, used, or retained" by any local agency regardless of its physical form or characteristics.

The definition of "writing" is very broad and essentially means every medium for receiving and storing information. That can include all forms of electronic communications, such as emails or blog postings stored on City computers.

DO I HAVE TO PRODUCE PERSONAL NOTES, CALENDARS OR PRELIMINARY DRAFTS OF DOCUMENTS?

Maybe. If the records relate to City business, and you have kept them in the ordinary course of City business you may have to produce them. Check with the City Attorney if you have any questions.

CAN I CHARGE FOR THE STAFF TIME IT TAKES TO PRODUCE THE RECORDS?

Generally no. The cost of producing records is limited to the "direct costs of duplication" which does not include the staff time to assemble and review documents. The City's fee schedule limits photocopies to 5 cents per page.