



MEMORANDUM

Date: October 24, 2014

To: The Honorable Chair and Members
Pima County Board of Supervisors
Presiding Judge, Superior Court
Elected Officials
Appointing Authorities

From: C.H. Huckelberry
County Administrator 

Re: **Uniform Standards for Responding to Public Records Requests by the Clerk of the Board**

Attached for your review and comment is proposed amended Administrative Procedure 4-4 to centralize the processing of all public records requests through the Clerk of the Board.

A Public Records Request Portal has been created and may be accessed via the Quick Links section at www.pima.gov. Public records requests would be submitted in writing; and those making requests can either be directed to the portal to complete the online form or they may receive the paper form, which is an attachment to Administrative Procedure 4-4.

This centralized system will streamline the public records request process, eliminate duplication of effort, and provide for a single comprehensive response to multifaceted public records requests.

I would appreciate receiving any comments you may have regarding this proposed procedure by Friday, November 7, 2014.

CHH/mjk

Attachment

c: Robin Brigode, Clerk of the Board of Supervisors



ADMINISTRATIVE PROCEDURES

Procedure Number: 4-4
Effective Date: _____

County Administrator: _____

SUBJECT: **Public Record Requests and Cost Recovery for the Release of Public Data**

DEPARTMENT RESPONSIBLE: **All County Departments**

I. PURPOSE

To establish a standard practice to address public record requests and to facilitate the public's right to information.

II. DEFINITIONS

A. **Commercial Purpose:** The use of public records for the direct economic exploitation, such as:

1. using the public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale; or
2. obtaining of names and addresses from such public records for the purpose of solicitation; or
3. the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser will get a monetary gain from the direct or indirect use of the public record.

Commercial purpose does not include:

1. use of public records as evidence or research in a judicial or quasi-judicial action in Arizona;
2. the publication of all or a portion of a public record in a newspaper for its news value; or
3. merely using information from the records for furtherance of one's trade or business.

B. **Confidential Records:** Records that a rule, regulation, state or federal law specifically identifies as "confidential" or otherwise not subject to release. A promise of confidentiality does not make a record confidential.

C. **Officer:** Any person elected or appointed to hold any elective or appointive County office and any chief administrative officer, head, director, superintendent or chairman of any County office.

D. **Other Matters:** See "public record."

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- E. Person: Includes corporations, associations, societies, organizations and individuals.
 - F. Personal Identifying Information: Except where integral to the government purpose, includes but is not limited to: social security number; date of birth; residence or mailing address; signature; e-mail signature, address or account; driver or professional license number; telephone number; employer and employment information; student or military ID number; citizenship status; credit card, charge card and debit card numbers; mother's maiden name; fingerprint; and, genetic information.
 - G. Prompt response: Prompt means "quick to act" and "without delay." Based on the accessibility and volume of material requested, the department must provide access to or copies of the record without delay. Access to a public record is deemed denied if a custodian fails to promptly respond to a request for production of a public record.
 - H. Public Record: All books, papers, maps, photos and documentary materials that:
 - 1. are produced or kept by a public officer in pursuance of a duty; or
 - 2. document the activities of a public body; or
 - 3. made disseminate information to the public; or
 - 4. serve as a memorial or evidence of official transactions of the government.
 - I. Redaction: Removing portions of a record, by blacking out or otherwise making the information impossible to read, before allowing the record to be viewed or releasing the record to the public.

III. PUBLIC RECORDS

- A. Public records and other matters in County offices are to be open to inspection at all times during office hours unless:
 - 1. Release of information in the record is prohibited by Arizona law or court order.
 - 2. The record contains personal identifying information or other information that would infringe on individual privacy rights, such as medical information, or that could lead to identity theft.
 - 3. The record contains information that is otherwise confidential.
 - 4. Release of information would not be in the best interest of the County because the release would cause a clearly articulated, specific and not speculative harm to the county's operations.
- B. Any person may request to examine or be furnished copies of any public record during regular office hours, pursuant to the following:
 - 1. Requests made for public records shall be made in writing, so the responding department clearly understands what the person wants.
 - 2. The record will be provided in the format in which it is kept. The County is not required to create a record to meet a public record request nor is it required to obtain new data, perform research, create new report formats, or answer questions posed in the request.
 - 3. The County is not required to provide copies of information that is publically accessible on the County's websites.

IV. PROCESSING OF PUBLIC RECORD REQUESTS BY COUNTY DEPARTMENTS

- A. All Departments will designate at least two individuals that will process public record requests received by the department and provide the Clerk of the Board with the names of the responsible individuals.
- B. Any person that wishes to obtain public records will either complete the Public Records Request Web Form on the County webpage or the Pima County Public Record Request Form attached to this Procedure.
- C. Clerk of the Board Responsibilities:
 - 1. Track, monitor and release all public record requests made to the members of the Board of Supervisors and departments that report to the County Administrator.
 - 2. Forward public records requests to the appropriate departments and maintain a copy.
 - 3. Provide the County Administrator and the Chief Civil Deputy County Attorney, or their designees, a copy of all public record requests.
 - 4. Provide the IT department copies of all requests for e-mail or other data systems.
 - 5. Forward the records retrieved by IT to the responsible department to complete the response.
 - 6. Notify the requestor of any delay in response time or of any associated fee.
 - 7. Coordinate the final response to the requestor, collect the appropriate fees and maintain a copy of the response.
- D. Department Responsibilities:
 - 1. E-mail a copy of any request received directly from the public to the Clerk of the Board at: PublicRecords@pima.gov.
 - 2. Immediately begin retrieving the public records that are responsive to the request.
 - 3. Notify the Clerk of the Board of any circumstances that will cause a delay in responding via email.
 - 4. If applicable, provide an estimate of any associated cost recovery fee to the Clerk of the Board via email.
 - 5. Properly redact all confidential, personal identifying, and private information from the record.
 - 6. Provide the response to the Clerk of the Board via email within 5 working days. Exceptions to email submission of responses and additional response time will be addressed as they arise.
 - 7. Notify the Clerk of the Board if the record no longer exists.

V. COST RECOVERY

- A. Unless otherwise provided by statute, the County may recover the cost of reproduction which includes: cost of materials (paper, diskette, CDs, etc.), cost of the machinery to do the reproduction, cost of labor to make copies (hardcopy or scan) and cost of postage. For commercial public record requests, the county can also recover costs for a portion of the cost of obtaining, including searching for, the original or copies of the document, and the value of the reproduction on the commercial market as determined by the department responsible to the request.

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- B. Pursuant to A.R.S. §39-122, no County employee can demand or receive a fee or compensation for issuing certified copies of public records or for making a search for them, when they are to be used in connection with a claim for pension, allotment, allowance, compensation, insurance or other benefits which are to be presented to the United States or a bureau or department thereof. The County may not charge crime victims for copies of Sheriff's reports pursuant to A.R.S. §39-127.
- C. The standard reproduction charge for County departments providing records for non-commercial use shall be \$0.35 per page or \$5.00 per compact disc (CD).

VI. EXEMPTIONS

This Administrative Procedure does not apply to the Superior Court, Justice Courts, the Office of the Pima County Recorder and the Pima County Sheriff's Department relating to requests for Police/Accident Reports.

Reference: Arizona Agency Handbook, Chapter 6 Public Records.

Effective Date: 9/23/1997
Revision Date(s): 1/26/2012
8/19/2014



**PIMA COUNTY
PUBLIC RECORDS REQUEST FORM**

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| <p>About this form</p> <ul style="list-style-type: none"> -Use this form to request a public record under Arizona Revised Statutes, Title 39, Ch. 1, Article 2 et seq. -To assist in our effort to process your request, please be specific when identifying the records requested. -Records or parts of some records may not be subject to public dissemination under Arizona law. You will be notified if the release of the record is restricted under law or if parts of the record requested will be redacted. -You will be contacted regarding any associated costs. | <p>How to complete this form</p> <ul style="list-style-type: none"> -For your convenience, this form can be filled out and filed on the County Website or returned by mail, or in person to: <p align="center"> Pima County Clerk of the Board Mailstop: DT-ADE-130 130 W. Congress, 5th Floor Tucson, AZ 85701 Office hours: Monday - Friday, 8 a.m. to 5 p.m. except holidays. </p> |
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| 1. Record Information |
| Description of the public records requested: |
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| 2. Use of Record - Review the statute |
| I have reviewed and read the pertinent statutes. The requested records will be used for (check one): |
| <input type="checkbox"/> Non-Commercial purposes. |
| <input type="checkbox"/> Commercial purposes. If you intend to use these documents for commercial purpose state the purpose in the field below. A commercial use fee may apply. |
| Commercial use disclosure (A.R.S. §39-121.03): |
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| 3. Contact Information | | | |
| First Name: | | Last Name: | |
| Mailing Address: | | City | State |
| Telephone | Fax Number | Email Address | |

The public records requested are to be used solely for the purpose as stated on this form. A copy fee and/or postage fee may be associated with the request.



PIMA COUNTY
PUBLIC RECORDS REQUEST

A.R.S. § 39-121.01 (D)(1)

... "The custodian may require any person requesting that the custodian mail a copy of any public record to pay in advance for any copying and postage charges."

A.R.S. § 39-121.03

REQUEST FOR COPIES, PRINTOUTS OR PHOTOGRAPHS; STATEMENT OF PURPOSE; FEES

A. A person requesting copies, printouts or photographs of public records for a commercial purpose shall, upon making such a request, provide a certified statement setting forth the commercial purpose for which the copies, printouts or photographs will be used. Upon being furnished the verified statement the custodian of such records may furnish reproductions, the charge for which shall include the following:

1. A portion of the cost to the state for obtaining the original or copies of the documents, printouts or photographs.
2. A reasonable fee for the cost of time, equipment and personnel in producing such reproduction.
3. The value of the reproduction on the commercial market.

COMMERCIAL PURPOSE AS ABUSE OF PUBLIC RECORD; DETERMINATION BY GOVERNOR

B. If the custodian of a public record determines that the commercial purpose stated in the verified statement is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the governor requesting that the governor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose. The governor, upon application from a custodian of public records, shall determine whether the commercial purpose is a misuse or an abuse of the public record. If the governor determines that the public record shall not be provided for such commercial purpose he shall issue an executive order prohibiting the providing of such public records for such commercial purpose. If no order is issued within thirty days of the date of application, the custodian of public records shall provide such copies, printouts or photographs upon being paid the fee determined pursuant to subsection A of this section.

CIVIL PENALTY

C. A person who obtains public records for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses them for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorneys' fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.

DEFINITION OF COMMERCIAL PURPOSE

D. As used in this section "commercial purpose", means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from such public records for the purpose of solicitation or the sale of such names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in a judicial or quasi-judicial body of this state or a political subdivision of this state.

A.R.S. § 39-122. Free searches for and copies of public records to be used in claims against United States; liability for noncompliance

A. No state, county or city, or any officer or board thereof shall demand or receive a fee or compensation for issuing certified copies of public records or for making search for them, when they are to be used in connection with a claim for a pension, allotment, allowance, compensation, insurance or other benefits which is to be presented to the United States or a bureau or department thereof.

B. Notaries public shall not charge for an acknowledgment to a document which is to be so filed or presented.

C. The services specified in subsections A and B shall be rendered on request of an official of the United States, a claimant, his guardian or attorney. For each failure or refusal so to do, the officer so failing shall be liable on his official bond.