



## ADMINISTRATIVE PROCEDURES

Procedure Number: 4-4

Effective Date: 6/9/2015

County Administrator: *C. DeWitt*

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

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**DEPARTMENT RESPONSIBLE: All County Departments**

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### I. PURPOSE

To establish a process to address public record requests which are outside the ordinary course of business for County departments and to facilitate the public's right to information.

### II. DEFINITIONS

A. Administration and Central Service Departments: Board of Supervisors, County Administrator, Clerk of the Board, Elections, Facilities Management, Finance and Risk Management, Human Resources, Information Technology and Procurement.

B. Commercial Purpose: The use of public records for 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 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.

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

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- D. 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.
  - E. Other Matters: See "public records."
  - F. Person: Includes corporations, associations, societies, organizations and individuals.
  - G. 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.
  - H. 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.
  - I. 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. disseminate information to the public; or
    - 4. serve as a memorial or evidence of official transactions of the government.
  - J. 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.

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- B. Any person may request to examine or be furnished copies of any public record during regular office hours, pursuant to the following:
1. 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.
  2. The County is not required to provide copies of information that is publicly accessible on the County's websites.

#### IV. PROCESSING OF REQUESTS

- A. All Departments will designate at least two individuals to be the contacts for processing public record requests and provide the Clerk of the Board with the contact names.
- B. All Departments will independently evaluate and process Commercial Public Record Requests that are accompanied by a certified statement setting forth the commercial purpose, and collect the associated fees. The certified statement may be provided by the requestor using the Public Records Request Form (Attachment A), via the Public Records Request portal on Pima.gov or by any other formal written request that provides the required statutory information.
- C. Administration and Central Service Departments

##### Clerk of the Board

1. Will track, monitor, and release non-commercial public record requests.
2. Maintain the PublicRecords@pima.gov mailbox for record request communications.
3. Assign a public record request number.
4. Provide oversight of the Public Records Request portal and circulate requests to department contacts.
5. Copy all requests to the County Administrator and the Chief Civil Deputy County Attorney.
6. Prepare and submit the IT Email Request Form for all requests asking for email and circulate IT email results to the departments.
7. Create and maintain monthly report.
8. Maintain a copy of the public record request and response for two years.

##### Central Service Departments

1. Provide a copy of all requests directly received to PublicRecords@pima.gov
2. Upon receipt of request either from the Clerk or directly, begin retrieving records in response.
3. Notify the Clerk via PublicRecords@pima.gov :
  - if the record has been published to the Internet and its location
  - of any circumstance that may cause a delay in responding
  - of any associated fees
  - if the response will be released in segments over time
  - if the record(s) no longer exist
4. Determine relevance of email, and perform required redaction of all records in response to request.

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5. Responses are to be provided to the Clerk via [PublicRecords@pima.gov](mailto:PublicRecords@pima.gov) and must contain:
    - the assigned public record request number in the subject line
    - an index/description of the records provided and/or withheld as a separate attached document or included in the body of the email
    - the parameters used if an electronic search was conducted to retrieve the records (timeframes, keywords)
    - unique/descriptive file names for each document attached to the email
    - department contact name and number
  6. Large files should be emailed using the established IT standard posted on the IT Intranet.
  7. Notify the Clerk via [PublicRecords@pima.gov](mailto:PublicRecords@pima.gov) regarding any responses that will deviate from this process.

D. All Other Departments (Not Administration/Central Service)

1. Non-commercial public records requests received directly by departments are to be copied to the Clerk via [PublicRecords@pima.gov](mailto:PublicRecords@pima.gov).
2. A public record request number will be assigned for each request by the Clerk.
3. The Clerk will forward all requests received for departments.
4. The Clerk will copy requests to the County Administrator and the Chief Civil Deputy County Attorney.
5. Departments shall work with requestors, respond directly to requests and collect associated fees.
6. Departments shall independently respond to their portion of any multi-departmental request.
7. For any request that asks for email, Departments must submit the online ITD Email Retrieval Request located on the County Intranet under the Information Technology Services banner. ITD Infrastructure Services will provide the search results back to the department.
8. Departments shall determine relevance of email, and perform required redaction of all records in response to request.
9. Responses must contain:
  - a reference to the assigned number
  - an index/description of the records provided and/or withheld
  - department contact name and number
10. Emailed responses containing large files should be sent using the established IT standard posted on the IT Intranet.
11. Departments shall maintain the public record request and response for two years.
12. Departments shall report the date of completion to the Clerk, referencing the assigned public record request number, via [PublicRecords@pima.gov](mailto:PublicRecords@pima.gov).

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 may

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also recover costs of obtaining, including searching for, the original or copies of the document, and the value of the reproduction on the commercial market. Cost recovery for commercial purposes will be determined by the responding department.

- 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 that is 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 charges for non-commercial use shall be \$0.35 a page for letter or legal size paper copies, \$5.00 for a compact disc (CD), or the established reproduction charge from Department Fee Schedules for other document formats.
- D. An hourly rate of \$10.00/hour may be charged for staff time which exceeds one hour for the process to copy records for paper copies or to scan paper records to create electronic copies.

## VI. EXEMPTIONS

- 1. Inquiries regarding the release of court records are governed solely by Rule 123, Arizona Rules of Court, and should be made to the Superior Court Administrator or to the Clerk of the Superior Court for case records.
- 2. The Office of the Medical Examiner.

Reference: Arizona Agency Handbook, Chapter 6 Public Records.

Original Effective Date: 9/23/1997  
 Prior Revision Date(s): 1/26/2012



**PIMA COUNTY  
 PUBLIC RECORDS REQUEST FORM**

<p><b>About this form</b></p> <ul style="list-style-type: none"> <li>•Use this form to request a public record under Arizona Revised Statutes, Title 39, Ch. 1, Article 2 et seq.</li> <li>•To assist in our effort to process your request, please be specific when identifying the records requested.</li> <li>•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.</li> <li>•You will be contacted regarding any associated fees.</li> </ul>	<p><b>How to complete this form</b></p> <ul style="list-style-type: none"> <li>•For your convenience, this form can be filled out and filed on the County Website or returned by mail, or in person to:</li> </ul> <p style="text-align: center;">Pima County Clerk of the Board                  Mailstop: DT-ADE-130                  130 W. Congress, 5th Floor                  Tucson, AZ 85701</p> <p>Office hours: Monday - Friday, 8 a.m. to 5 p.m. except holidays.</p>
<b>1. Record Information</b>	
Description of the public records requested:	

<b>2. Use of Record - Review the statute</b>
I have reviewed and read the pertinent statutes. The requested records will be used for (check one):
<input type="checkbox"/> NON-Commerical 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):

<b>3. Contact Information</b>			
First Name:		Last Name:	
Mailing Address:		City	State      Zip Code
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.