



ADMINISTRATIVE PROCEDURES

Procedure Number: 4-4

Effective Date: 12/09/2020

County Administrator: C. Deibel

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

DEPARTMENT RESPONSIBLE: County Supervisors, Elected Officials and All County Departments

I. PURPOSE

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

II. DEFINITIONS

- A. **Browser:** A software application that provides a way to search and interact with the Internet.
- B. **Browsing History:** A record of web pages visited on a device. Typically includes the name of the web page or site and its corresponding URL (address).
- C. **Cache:** Temporary storage of web documents, pages, and images, on the hard drive of a device.
- D. **Clerk:** Clerk of the Pima County Board of Supervisors.
- E. **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 can anticipate 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; or
- 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.

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- F. Confidential Records: Records that are identified as “confidential” or otherwise not subject to release by rule, regulation, or federal, state or local law. A promise of confidentiality does *not* make a record confidential, and the presence or absence of “confidential” or similar labeling is not determinative of whether the record is confidential.
- G. Cookie: A small text file stored in the user’s device created by a website visited on that device. Some cookies are stored permanently on the hard disk.
- H. Department Contact: A person who is identified by a Department to be responsible for receipt, dissemination, and compiling the response to the public records request within the Department and forwarding the completed response to the Clerk of the Board’s Office, as detailed in this Procedure.
- I. Device: Computer, smart phone, tablet or any other electronic device used for creating and maintaining documents or written communications.
- J. Fee: The amount charged to the requester for a copy of the public record.
- K. ITD: Pima County Information Technology Department.
- L. Ordinary Course of Business or Standard Business: Records a Department regularly produces and gives to the public as a function of the Department’s duties. Records created in the ordinary course of business may include, but are not limited to: forms, permits, pamphlets, and maps.
- M. Person: Includes a natural person or entity.
- N. Personal Identifying Information: 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 or other financial account numbers; mother’s maiden name; fingerprint; and genetic information.
- O. Portal: A website or web page providing access or links to other sites.
- P. Prompt Response or Promptly: Prompt means “quick to act” and “without delay.” Whether a particular response is prompt depends on the circumstances of the request, including the accessibility and volume of material requested and the amount of redaction required.
- Q. Public Record: All existing records, regardless of format, that:
1. Are produced or kept by a public officer in pursuance of a duty.
 2. Document the activities of a public body.
 3. Disseminate information to the public.
 4. Serve as a memorial or evidence of official transactions of the government.

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- R. Redact, Redacting or Redaction: Removing portions of a record, by blacking out or otherwise making the information impossible to read, before the record is viewed by or released to the requester or the public.
 - S. Social Media: Websites and applications where users create online communities to share information, ideas, personal messages, and other content.

III. PUBLIC RECORDS

- A. Public records must be open to inspection at all times during office hours. Some public records, or portions of public records, may be protected from release for the following reasons:
 - 1. The record or information in the record is confidential by law or a court order. Examples of records, or portions of records, made confidential by Arizona statute include, but are not limited to: Attorney-client privilege; residential address or private telephone number of a peace officer or prosecutor; photograph of undercover peace officer; medical records; minutes and recordings of executive sessions; library use, critical infrastructure, and personal and entity identifying information. See Section V(C) for a more complete guideline for redactions.
 - 2. There is a protected privacy interest, including personal identifying information that would infringe on individual privacy rights or information that could lead to identity theft.
 - 3. Release of information would not be in the best interest of the County because the release would cause a clearly articulated, specific (not speculative) harm to the County's operations.
- B. Pima County has an obligation to respond promptly to public records requests. Access to a public record is deemed denied if Pima County fails to promptly respond to a request for production of a public record.
- C. When a record contains information that is not subject to release to the public, the information must be redacted. The entire record cannot be withheld if only a portion of the record is not subject to release.
- D. A record will be provided in the format in which it is kept unless that is not possible because of needed redactions.
- E. The County is not required to create a record to meet a public records request, nor is it required to obtain new data, perform research, create new report formats, or answer questions posed in the request. If responsive records are stored in an electronic database, the County is required to query the database to retrieve responsive records, but it is not required to tally and compile previously untallied and un-compiled information or data available in that database.
- F. Any record created and/or maintained on personally-owned devices or in private, non-county sponsored accounts on which county business is conducted must be released in response to a public records request. It is the responsibility of the individual to search for and provide the records responsive to the request.

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- G. The requester(s) will be directed to the appropriate web page if requested information is located on the Pima County website or available on the internet.
- H. A public records request portal has been implemented on the Pima County website at www.pima.gov to assist with the submission of requests.

IV. PROCESSING OF REQUESTS

The duties set forth below apply *only* to requests for public records that are *not* produced by a Department in the ordinary course of business.

A. **Clerk of the Board (Clerk)**. The Clerk will:

1. Maintain publicrecords@pima.gov mailbox for records requests communication.
2. Be responsible for administering, maintaining, overseeing, and implementing the public records software and portal.
3. Track, monitor, and release non-commercial/non-standard business public record requests.
4. Forward, to the applicable Department(s), requests for records that are in the ordinary course of business or commercial requests for the Department to respond directly to the requester.
5. Circulate public records requests to the appropriate Department(s) via authorized Department Contacts.
6. Provide courtesy copies of each public records request to the County Administrator and Chief Civil Deputy County Attorney.
7. When a public records request seeks records requiring the expertise of ITD to obtain, like emails, browser histories, cookies, caches, and the like, request those records directly from ITD.
8. When a public records request seeks social media records, request those records from the Social Media Administrator.
9. Forward any records retrieved by ITD to the appropriate Department(s) for review and redaction.
10. Track progress of Department responses and follow-up on outstanding requests.
11. Provide responsive records to the requester and retain a copy of the request and response for two years, or as required by the State Library retention schedule.

B. **Board of Supervisors**. For requests of public records maintained by any member of the Board of Supervisors or their staff, the Clerk will:

1. Contact the requester for clarification, if needed.
2. Follow the applicable procedures established in Section IV(A).
3. Obtain records responsive to the request from the supervisorial district office(s), with the exception of e-mails, which will be obtained by ITD in accordance with Section IV(C).
4. Receive, review and redact e-mail records for the District office(s).
5. Release the records to the requester and provide a copy of the released records to the district office(s).

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- C. **ITD**. ITD will:
1. Promptly upon receipt of a public records request for electronic records from the Clerk, will search for emails, browser histories, cookies, caches and other electronic information that may be responsive to the request.
 2. Promptly provide the responsive records to the Clerk.
- D. **Social Media Administrator**. The Social Media Administrator will:
1. Promptly upon receipt of a public records request from the Clerk, will conduct a search for records responsive to the request in social media accounts that utilize the recommended County-owned management tools.
 2. Promptly provide the responsive records to the Clerk.
- E. **Departments and other Elected Officials**. The Department or elected official's office (collectively and individually "the Department") will:
1. Develop an internal Departmental process for processing public record requests. The Department is responsible for the content of information that is released. All reviews, redactions and legal inquiries should be completed at the Departmental level before the response is sent to the Clerk of the Board's Office for dissemination. This process should include Departmental approval routes to ensure that the information being provided to the requester complies with all redaction, relevance, and legal requirements. Development of this process will ensure information is accurate and ready for release upon returning the response to the Clerk of the Board's Office.
 2. Designate at least two individuals to be Department Contacts and provide the Clerk of the Board with the contact information by email to publicrecords@pima.gov. If at any time a Department Contact is no longer able to perform their duty regarding public records, the Department will immediately designate a new Department Contact to replace that person.
 3. Respond to all **standard business** requests that are forwarded to them. These requests are considered ordinary course of business and the Department will respond directly to the requester. Such requests, once sent to the Department, are no longer routed through the Clerk.
 4. Handle all **commercial** public records requests forwarded to them that are accompanied by a certified statement that the request is for commercial purpose, as well as collect any associated fees. The certified statement may be provided by the requester using the Public Records Request Form (Attachment A), via the Public Records Request portal on www.pima.gov or by any other formal written request that provides the required statutory information. Such requests, once sent to the Department, are no longer routed through the Clerk.
 5. Any records requests received directly from the public should be immediately sent to publicrecords@pima.gov.
 6. Review the request and notify the Clerk, via the provided portal link, of any of the following:
 - a) If the Department does not maintain the requested records.
 - b) If the records are available on the Internet and the website where they can

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- be accessed by the public.
- c) Any other Departments not already identified that may have responsive records.
 - d) Any circumstance that may cause a delay in responding promptly.
 - e) Any associated fees to be charged and the corresponding accounting string.
 - f) If permission was received from the requester to hold and release all requested records at one time.
 - g) If the records no longer exist.
 - h) If the requester provided any clarification or changes to the original request and the corresponding email string.
7. Contact the requester directly if further clarification is needed regarding the request.
 8. Immediately upon receipt of the public records request from the Clerk, search for, gather and prepare the records for release.
 9. Advise the requester of possible fees prior to fulfilling the request. When fees are involved, the Department is responsible for receiving payment, releasing responsive records to the requester, and sending copies of the responsive records to the Clerk via the portal so that the public records request can be closed. The Clerk's Office should also be notified that payment was received and that the records have been provided to the requester.
 10. If applicable, determine if the records provided by the Clerk via ITD are responsive to the request. (*NOTE: The search conducted by ITD may be over-inclusive. Ascertain that the records being prepared for release respond to the request.*)
 11. Thoroughly review all the records and perform the appropriate redactions. If necessary, consult with the Department assigned Civil Deputy County Attorney in determining what information should be redacted.
 12. Submit all records via the portal link. Exceptions, such as emails in their original format or large files, should be emailed using the established ITD standard posted on the ITD Intranet.
 13. Exceptions to this workflow will be addressed on an individual basis by notifying the Clerk of the Board via publicrecords@pima.gov.

V. GUIDELINES FOR REDACTION AND RELEASE OF RECORDS

- A. In responding to a public records request, the County is not required to:
 1. Provide copies of information that is publicly accessible on the County's websites.
 2. Create a record that does not exist. If a public records request includes questions, the County is not required to create answers to those questions, but must produce existing records responsive to the question.
 3. Manipulate the format of an existing record or sort the data in a particular way.
 4. Obtain new data or perform calculations.
 5. Perform research, except that the Department must locate and identify responsive records, whether they are in hard-copy or electronic format, including information that is stored in a database. But the County need not tally and compile previously untallied and un-compiled information or data available in an electronic database.

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- B. Unless the record contains otherwise public information and the information described below can be redacted from the record, the following records are *not* to be released in response to a public records request:
1. Records that are strictly personal in nature that do not relate to county business (e.g. medical appointments, lunch dates, vacation requests.)
 2. Records that relate to county business, but that are confidential by law.
 3. Records relating to prosecutors, judges, and law enforcement officers which the Court has ordered sealed.
 4. Attorney-client privileged records, irrespective of whether they are marked as such. Any questions about whether a record is protected by attorney-client privilege should be directed to the Department's assigned Civil Deputy County Attorney.
 5. Any record that would cause a *clearly articulated and specific* harm to the County's operations if released. The harm cannot be speculative or hypothetical.
- C. Redactions. In records that are subject to release, information that is personal, confidential by law, or against the best interests of the County must be redacted. In general, the types of information to redact from a record prior to release includes, but is not limited to, the following:
1. Personal identifying information.
 2. School records.
 3. Juvenile names or pictures.
 4. Vital records (e.g. birth and death certificates).
 5. Criminal history.
 6. Financial information, including, but not limited to: debit and credit card account numbers, checking and savings account numbers and retirement account numbers.
 7. Elective payroll deductions or other withholding information of County employees. (*NOTE: public employees' names, job titles, salaries, and tax withholdings required by law are public record.*)
 8. Medical or psychiatric history.

For questions on redactions, consult with your Department's assigned Civil Deputy County Attorney.

- D. Records not requiring redaction can and should be released in their native format, unless the requester has asked otherwise and the request can be easily accommodated.

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 records requests, the County may 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

- A. The Office of the Medical Examiner.
- B. County Attorney's Office.
- C. Pima County Superior Court. (The release of Court records is governed solely by Rule 123, Arizona Rules of Court. Request for Court records must be made to the Superior Court Administrator or to the Clerk of the Superior Court.)

Reference: Arizona Agency Handbook, Chapter 6 Public Records.

Effective Date:	12/09/2020
Prior Revision Date(s):	1/26/2012
	6/9/2015
	9/23/1997



**PIMA COUNTY
PUBLIC RECORDS REQUEST FORM**

<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 <i>et seq.</i> •To assist in our effort to process your request, please be as specific and detailed as possible to help us identify the record(s) requested. •Records or parts of some records may not be subject to public dissemination under Arizona law. Those portions will be redacted. •You will be contacted regarding any associated fees. If there are any associated fees, they are payable in advance. 	<p>Completing this form</p> <p>For your convenience, this form can be emailed to publicrecords@pima.gov, or returned by mail or in person to:</p> <p align="center">Pima County Clerk of the Board Mailstop: DT-ADE-130 130 W. Congress St., 1st Floor Tucson, AZ 85701</p> <p>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 record requested:

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 purposes, state the purpose in the field below. A commercial use fee may apply. The requested public records may be used solely for the purpose stated.
Commercial use disclosure (A.R.S. §39-121.03):

3. Contact Information			
First Name:		Last Name:	
Mailing Address:		City:	State: Zip Code:
Telephone:	Fax Number:	Email Address:	



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; COMMERCIAL PURPOSE AS ABUSE OF PUBLIC RECORDS; DETERMINATION BY GOVERNOR; CIVIL PENALTY; DEFINITION

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 public body 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 as best determined by the public body.

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 the governor 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 it 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. For the purposes of 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.

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.