

# ALLEGHENY COUNTY AUTHORITIES POLICY GOVERNING ACCESS TO PUBLIC RECORDS

## GENERAL

The purpose of this policy (the “**Policy**”) is to ensure compliance with Act 3 of 2008, known as the Pennsylvania Right-to-Know law (the “**Act**”), by appointing an Open Records Officer for the Allegheny County Authority for the Improvements in Municipalities (“**AIM**”), Redevelopment Authority of Allegheny County (“**RAAC**”), Allegheny County Industrial Development Authority (“**ACIDA**”), the Allegheny County Hospital Development Authority (“**ACHDA**”), the Allegheny County Higher Education Building Authority (“**ACHEBA**”), and the Allegheny County Residential Finance Authority (“**ACFRA**,” each of the ACIDA, ACHDA, ACHEBA, RAAC and AIM an “**Authority**” and, collectively the “**Authorities**”), by establishing procedures under which a person may request access to public records kept or maintained by the Authorities (including records provided by third parties to the Authorities) in order to minimize the financial and administrative impact to the Authorities regarding the resources utilized in the receipt and processing of requests for access to public records, and by establishing a fee schedule for the duplication of public records.

## SCOPE

This Policy is applicable to the Allegheny County Authority for the Improvements in Municipalities, Redevelopment Authority of Allegheny County, Allegheny County Industrial Development Authority, the Allegheny County Hospital Development Authority, the Allegheny County Higher Education Building Authority and the Allegheny County Residential Finance Authority.

## NOTICE OF POLICY

Written copies of this Policy shall be posted in a conspicuous location at the offices of the Authorities and on the Authorities website.

## POLICY GUIDELINES AND PROCEDURES

### I. DEFINITIONS

The definitions set forth in the Act are hereby incorporated by reference in their entirety herein. The phrase “request for access” as used in this Policy shall mean either to inspect or review the public record in person or to be provided with a copy of the public record in the medium requested upon payment to the Authorities of the applicable fees.

### II. OPEN RECORDS OFFICER

**A. Appointment.** Each of the Authorities has designated the Manager of Human Resources and Marketing of Allegheny County Economic Development as an official of the respective Authority and the Authority’s Open Records Officer (the “Authority’s **Open Records Officer**”) responsible for receiving and responding to all requests for access in accordance with this Policy and the Act. The

Authority's Open Records Officer, with the advice and assistance of the Authority's solicitor, when required, shall be the person responsible for the implementation of these policy guidelines.

**B. Duties of Open Records Officer.**

1. The Authority's Open Records Officer shall be responsible for the following:
  - (a) receiving requests for access submitted under the Act for records which are (i) kept or maintained by the Authority, or (ii) in the possession of a third party with whom the Authority has contracted to perform a governmental function on behalf of the Authority which directly relates to the governmental function and which is not privileged or otherwise exempt under the Act;
  - (b) directing requests for access to other appropriate persons within the Authority or to appropriate persons in another agency for a response to the request for access;
  - (c) tracking the progress of the Authority in responding to requests for access; and
  - (d) issuing interim and final responses for requests for access under the Act.
2. Upon receipt of a request for access, the Authority's Open Records Officer shall:
  - (a) Note the date of the receipt on the written request;
  - (b) Compute the day on which the five (5) day period under Section 901 of the Act will expire and make a notation of that date on the written request;
  - (c) Maintain an electronic or paper copy of the written request, including all documents submitted with the request for access, until the request for access has been fulfilled. If the request for access is denied, the written request shall be maintained for thirty (30) days or, if an appeal is filed under the Act, until a final determination is issued under Section 1101(b) or the appeal is deemed denied; and
  - (d) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requestor, and a copy of other communications.

**III. REQUESTS FOR ACCESS TO PUBLIC RECORDS**

**A. Written Requests; Forms of Request for Access.** All requests for access to public records of the Authority under this Policy shall be submitted in writing on the uniform request form adopted by the Office of Open Records attached hereto as "**Form A – Uniform Request for Access.**"

**B. Method of Submission.** All written requests for access may be submitted in person, by mail, by email or facsimile and must be addressed to the Authority Open Records Officer. Any written request for access submitted directly to any member, officer or director of the Authority shall be forwarded to the Authority's Open Records Officer; **PROVIDED, HOWEVER, THE TIME PERIOD FOR A WRITTEN RESPONSE TO A REQUEST FOR ACCESS SHALL NOT COMMENCE UNTIL THE RECEIPT OF THE WRITTEN REQUEST BY THE AUTHORITY'S OPEN**

**RECORDS OFFICER.** Email requests for access shall state in the subject line that the request is being made pursuant to the Pennsylvania Right to Know Law.

**C. Name and Address of Requestor.** All written requests for access shall include the name and address to which the Authority should address a response.

**D. Specificity of Request.** A written request for access shall identify or describe each record sought with sufficient specificity to enable the Authority to ascertain which records are being requested. Failure to identify or describe the record or records sought by the requestor with sufficient specificity shall serve as a basis for the denial of the request for access. A written request for access does not need to provide the reason for the request for access or the intended use of the record.

**E. No Verbal, Anonymous or Standing Requests.** Verbal, anonymous and standing requests will not be accepted.

#### IV. RESPONSES TO REQUEST FOR ACCESS

**A. General Rule.** Upon receipt of a request for access, the Authority's Open Records Officer shall make a good faith effort to determine: (i) if the request is for a public record which is not privileged or exempt under the Act, and (ii) whether the Authority has possession, custody or control of the record requested and to respond as promptly as possible under the circumstances existing at the time of the request for access. Payment of all applicable fees shall be a condition to receiving access to the record requested.

**B. Time Period for Response to Request for Access.** The Authority's Open Records Officer will provide a written response to the request for access within five (5) business days from the date of the receipt of the written request for access. If the Authority does not respond within five (5) business days of the receipt of the request for access, the request shall be deemed denied.

**C. Possible Responses to Request for Access.** The Authority's Open Records Officer will provide a response which (1) grants the request for access, (2) denies the request for access, (3) grants in part and denies in part the request for access, or (4) requests an extension of time.

##### 1. Response; Notice of Access Granted.

(a) **Time and Manner of Access.** If access to the public record is granted, the Authority's Open Records Officer shall provide a written notice to the requestor which (i) shall be signed by the Authority's Open Records Officer, (ii) shall be dated, (iii) shall describe the manner in which the public record will be made available and (iv) shall include the fee schedule. The public record shall be available for inspection and duplication during regular business hours from 8:30 a.m. to 4:30 p.m. at the Authority's office located at 425 Sixth Street, Suite 800, Pittsburgh, PA 15219. All records made available for inspection shall be examined or inspected by a requestor under the supervision of an employee designated by the Authority's Open Records Officer. The Authority's Open Records Officer or his/her designee shall cooperate fully with the requestor, while taking reasonable measures to protect the records from the possibility of theft, destruction and/or modification.

(b) **Medium for Providing Access.** The record provided to a requestor shall be in the medium requested, if it exists in that medium; otherwise, the record shall be provided in the medium in which it exists.

(c) **Electronic Access.** In addition to providing access to a record by personal inspection of the record, the Authority's Open Record Officer may respond to a request by notifying the requestor that the record is available through publicly accessible electronic means or that the Authority will provide access to inspect the record by electronic means. If the requestor is unwilling or unable to access the record by electronic means, the requestor may, within thirty (30) days following receipt of notification by the Authority's Open Records Officer that the record is available for inspection by electronic means, submit a written request to the Authority's Open Records Officer to have the record converted to paper. The Authority's Open Records Officer shall provide access to the record by causing the record to be printed onto paper within five (5) business days of the receipt of the written request for conversion of the record from an electronic form to paper; provided however, that the requestor pays the applicable fee for the printing (copying) of the record.

(d) **No Obligation to Create a Record.** In no case shall the Authority be required to create a record which does not currently exist or compile, maintain, format or organize a record in a manner which the Authority does not currently compile, maintain, format or organize the record.

2. **Response; Notice of Denial of Access.**

(a) **Form and Content of Denial.** If access to the record requested is denied, the Authority's Open Records Officer shall provide a written notice to the requestor which (i) shall be signed by the Authority's Open Records Officer, (ii) shall be dated, (iii) shall describe the record being requested and the basis for the denial, including a citation of specific legal authority, and (iv) shall outline the appeal procedures.

(b) **Basis for Denial.**

(i) **Disruptive Requests.** A written request for access may be denied as authorized by Section 506(a)(1) of the Act, if the requestor has made repeated requests for the same record and the repeated requests have placed an unreasonable burden on the Authority.

(ii) **Disaster or Damage.** A written request for access may be denied as authorized by Section 506(b)(1) of the Act, when (A) timely access is not possible due to fire, flood or other disaster; or (B) access may, in the professional judgment of the curator or custodian, cause physical damage or irreparable harm to records consisting of historical, ancient or rare documents, records, archives and manuscripts.

(iii) **Redaction.** The Authority reserves the right to redact any and all information from a public record that is not subject to access in accordance with Section 706 of the Act. The information which is redacted in accordance with the Act is deemed a denial.

(iv) **State or Federal Law, Regulation Decree.** The Authority may deny a request for access on the basis that the request is for a record that is exempt from being disclosed under a Federal or State law or regulation or judicial order or decree.

(v) **Privilege.** The Authority may deny a request for access on the basis that the request is for a record that is protected by a privilege.

(vi) **Exemption under Section 708.** The Authority may deny a request for access on the basis that the request is for a record that is exempt under Section 708 of the Act.

3. **Response; Grant in Part/Denial in Part.**

If access to the record requested is granted in part and denied in part, the Authority's Open Records Officer shall provide a written notice to the requestor which (i) shall be signed by the Authority's Open Records Officer, (ii) shall be dated, (iii) shall describe the record, or portions thereof, for which access is being granted, (iv) describe the record, or portions thereof, for which access is being denied and the basis for the denial, including a citation of specific legal authority, (v) shall describe the manner in which the public record, or portion thereof which is public, will be made available, (vi) shall include the fee schedule, and (vii) shall outline the appeal procedures.

4. **Response; Extension of Time.**

The Authority's Open Records Officer shall determine if one of the following applies:

(a) the request for access requires redaction in accordance with Section 706 of the Act;

(b) the request for access requires the retrieval of a record stored in a remote location;

(c) a timely response cannot be accomplished due to a bona fide and specified staffing limitation;

(d) a legal review is necessary to determine whether or not the record is subject to access;

(e) the requestor has not complied with this Policy regarding access to records;

(f) the requestor refuses to pay the applicable fees authorized by the Act and set forth in the Policy; or

(g) the extent or nature of the request precludes a response within the required time period. An extension shall also be requested when the Authority receives a request for a record that has been designated by an individual or entity as containing trade secrets or confidential proprietary information.

Upon such determination, the Authority's Open Records Officer shall send a written response within five (5) business days of receipt of the request for access. The written response shall (i) notify the requestor that the request for access is being reviewed and the reason for the review, (ii) provide a reasonable date that a response is expected to be provided, and (iii) provide an estimate of the applicable fees owed when the record becomes available.

For extensions of time which the Authority reasonably believes will be in excess of thirty (30) days, following the five (5) business days allowed for a response under the Act, the Authority's response for an extension of time shall require an acknowledgement from the requester to the date specified in the response. If an acknowledgement is not received by the requestor to the date specified in the response (for extensions in excess of thirty (30) days, following the five (5) business days allowed for a response

under the Act), the request for access shall be deemed denied. If the requestor agrees to an extension, the request shall be deemed denied on the day following the date specified in Form E if the Authority has not provided a response by that date.

## **V. THIRD PARTY DOCUMENTS- CONFIDENTIAL PROPRIETARY INFORMATION AND TRADE SECRETS.**

Any record submitted by an individual or entity (each a “**Third Party**”) to the Authority which the Third Party claims contains a “trade secret” or is or contains “confidential proprietary information” (as such terms are defined in Section 102 of the Act) shall be accompanied by a written statement signed by the Third Party designating the record as containing a trade secret or confidential proprietary information and the record shall be marked as such.

If the request is for access to a record provided by a Third Party which has been designated by the Third Party as containing trade secrets or confidential proprietary information, the Authority’s Open Records Officer shall (i) request an extension from the requestor in accordance with the above paragraph, and (ii) provide written notice to the Third Party within five (5) business days of the request.

The Third Party shall have five (5) business days from the date it receives the written notice from the Authority’s Open Records Officer to provide input on the release of the record. Within ten (10) business days from the date the Authority’s Open Records Officer provided notice to the Third Party, the Authority’s Open Records Officer shall either grant access to the record or deny access to the record in accordance with the Act and this Policy.

The designation of a record as containing trade secrets or confidential proprietary information or the receipt of a written statement designating the record as such is not conclusive. The Authority has discretion to grant access to such record notwithstanding such designation or the receipt of the written statement.

## **V. RECORD DISCARD**

If the Authority’s response states that copies of the requested public records are available for retrieval at the office of the Authority, and the requester fails to retrieve the records within sixty (60) days of the Authority’s response, the copies shall be disposed of and the Authority shall keep any fees paid to date.

## **VI. FEES AND CHARGES**

1. **Payment of all Applicable Fees.** Payment of all applicable fees shall be a condition to receiving access to the record requested.

2. **Fee Structure.** Section 1307 of the Act requires the Commonwealth’s Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. Each of the Authorities is a Local Agency under the Act. The fee structure established by the Commonwealth’s Office of Open Records for Local Agencies is incorporated by reference in its entirety herein and attached hereto as Exhibit “A.” The fee structure established by the Commonwealth’s Office of Open Records for Local Agencies also can be reviewed at <http://openrecords.state.pa.us>.

3. **Prepayment:** In the event the estimated cost of fulfilling a request for access is reasonably expected to exceed \$100.00, the requestor shall be required to prepay the estimated costs when

the request is granted. The balance of any fees due once duplication has been completed shall be paid in advance by the requestor prior to the release of the public records.

## **VII. APPEAL PROCEDURE**

If a request is denied or deemed denied in accordance with the Act or this Policy, the requestor may file an appeal with the Office of Open Records or judicial, legislative or other appeal officer designated under the Act within fifteen (15) business days of the mailing date of the Authority's response or within fifteen (15) business days of the deemed denial. The appeal shall state the grounds upon which the requestor asserts that the record is a public record or financial record and shall address any grounds stated by the Authority for delaying or denying the request.

## **VIII. EFFECTIVE DATE**

This Policy shall take effect immediately

**FORM A**

**OPEN OFFICE RECORDS UNIFORM REQUEST FOR ACCESS**

**STANDARD RIGHT-TO-KNOW REQUEST FORM**

**DATE REQUESTED:**

**REQUEST SUBMITTED BY:** E-MAIL      U.S. MAIL      FAX      IN-PERSON

**NAME OF REQUESTOR :** \_\_\_\_\_

**STREET ADDRESS :** \_\_\_\_\_

**CITY/STATE/COUNTY (Required):** \_\_\_\_\_

**TELEPHONE (Optional):** \_\_\_\_\_

**RECORDS REQUESTED:**

*\*Provide as much specific detail as possible so the agency can identify the information.*

**DO YOU WANT COPIES? YES or NO**

**DO YOU WANT TO INSPECT THE RECORDS? YES or NO**

**DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO**

\_\_\_\_\_  
**RIGHT TO KNOW OFFICER:**

**DATE RECEIVED BY THE AGENCY:**

**AGENCY FIVE (5)-DAY RESPONSE DUE:**

*\*\*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.)  
Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

**EXHIBIT A**

**Fee Structure Established by Office of Open Records**

<b>Record Type</b>	<b>Fee</b>
<b>Copies:</b> ( A “photocopy” is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5” x 11” page )	\$0.25 per page.
<b>Certification of a Record:</b>	\$1 per record, not per page. Please note that certification fees do not include notarization fees.
<b>Specialized documents :</b> For example, but not limited to, blue prints, color copies, non-standard sized documents	Actual Cost
<b>Facsimile/Microfiche/Other Media:</b>	Actual Cost
<b>Redaction Fee:</b>	No Redaction Fee May be Imposed
<b>Conversion to Paper:</b>	If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).
<b>Postage Fees:</b>	Fees for Postage May Not Exceed the Actual Cost of Mailing

**Please Also Be Advised:**

- **Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051. Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police may charge up to \$25 per copy. *Id.* at (b)(3). State police are authorized to charge “\$5 for each copy of the Pennsylvania State Police full report of investigation.” 75 Pa.C.S. §1956(b).

- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- **Enhanced Electronic Access:** If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.** Please submit any request to the

Office of Open Records  
400 North Street  
Harrisburg , PA. 17120

- **Fee Limitations:** Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request.
- **Prepayment:** Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.
  - Once the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.