

**METRO WATER RECOVERY
RECORDS & INFORMATION MANAGEMENT**

Standard Operating Procedure 12 – Responding to Open Records Act Requests

Original Issue Date 05/1999	Revision 11	Revision Date 02/21/2023	Approved By <i>Edward A. Steyer</i>	Date 02/21/2023
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INTRODUCTION

Metro Water Recovery (“Metro”) adopted these procedures regarding the handling of Colorado Open Records Act (“CORA”) requests to ensure public access to the records at reasonable times and without unreasonable delay, to protect the integrity of Metro records, to prevent unnecessary interference with Metro staff’s obligation to perform their other public service responsibilities, and to provide for a fee and charge structure in compliance with CORA. All CORA requests shall be coordinated through Records & Information Management (“RIM”) staff.

PROCEDURE

Any person (“applicant” or “requestor”) may request to view public records in the possession of Metro. Metro’s public records custodian (“Records Custodian” or “Custodian”) is the RIM Administrator or his/her designee.

Records Requests

When responding to a request for public records under CORA, Metro will respond within three working days to either (1) inform the applicant of estimated costs associated with responding to the request, (2) inform the applicant if extenuating circumstances exist, (3) request clarification of a request, or (4) provide copies of or allow access to records. The three working-day response time begins the first working day following receipt of the request. A request received (1) after 3:00 pm or (2) on any day Metro’s Records Custodian does not maintain official working hours, will be considered received as of the following working day or when the record custodian maintains official working hours. Metro may add up to a seven-working-day extension if extenuating circumstances apply as described in section 24-72-203(3)(b), C.R.S. Metro will provide all findings of extenuating circumstances to the requestor in writing. If the public records requested are in active use, storage, or otherwise not readily available, the Custodian will inform the applicant of this fact in its response.

Requests should be made with sufficient specificity to identify the requested documents. Broad, general requests will involve more time to find and will likely be more costly because of the additional staff time required to fulfill these requests. Metro may contact the applicant within the three working-day response time to attempt to clarify or narrow a request.

When a substantial request requiring more than one hour of staff time to research, retrieve, and review records is received, Metro will charge the applicant for all staff time involved in the research, retrieval, and review of records in accordance with 24-72-205, C.R.S, and other applicable law. Prior to fulfilling a substantial request, Metro will provide the requestor with a cost estimate that includes the estimated time for staff to research, retrieve and review records. The requestor must approve the cost estimate and make payment in full (or make payment on an arranged advanced deposit) before Metro will begin to fulfill the records request.

Records Inspections

If an applicant wants to review records in-person, the records will be made available for inspection in Metro’s Central Records area on Tuesdays, Wednesdays and Thursdays from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. No records inspections will be scheduled for Mondays or Fridays. These dates and times for records inspections have been determined based upon the current staffing levels and workload of the RIM Workgroup. The requestor must bring photo ID to view records.

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The applicant will review the records in an area designated for such review in Central Records. For records not stored electronically, Metro may, but is not obligated to, provide access to any public record via an electronic or digital format. RIM personnel may, at their discretion, monitor the inspection of the records in order to ensure the protection of the records and prevent unnecessary interference with the discharge of the duties of RIM or other Metro staff. The applicant is prohibited from using, unless required by law, image scanning equipment, cameras (digital or otherwise), copiers, or any other means of electronically or digitally reproducing any public record during the review.

Under State and Federal law, the Custodian may deny inspection of certain records and must deny the inspection of other records, in whole or in part. The Custodian shall not provide the records to the applicant until the records that can or must be withheld have been removed. If a record that should have been withheld is inadvertently produced and a photocopy is requested, the copy request will be denied and the Custodian shall provide the applicant with the reason for denial as set forth herein. If the Custodian denies the applicant access to any public record, the applicant may request a written statement of the grounds for denial. Such request for a written statement of the grounds for denial shall be made at or before the time of inspection of the records. Subject to applicable fees, the Custodian will provide this information to the applicant, forthwith, setting forth the citation to the law or regulation under which access was denied.

Abandoned Requests

If Metro attempts to contact an applicant to: (i) clarify or discuss the scope of a request; and/or (ii) provide a cost estimate for researching, retrieving, and reviewing a substantial request; and the requestor does not respond within ten (10) business days, Metro will consider the request abandoned and will not process the request thereafter. Additionally, if Metro provides notice that the records are available for inspection, the requestor must schedule a time to inspect the records within ten (10) business days, or the request will be considered abandoned and Metro will not make the records available thereafter. A requestor may submit a subsequent request.

FEES AND CHARGES

Research and Retrieval Fees

Except for Qualified Academic Requests, which are defined below, Metro does not charge a fee for research and retrieval of records where the time to research and retrieve the records does not exceed 60 minutes of Metro staff time. Time in excess of 60 minutes will be charged at the rate of \$33 per hour. If Metro staff believes the research and retrieval of the records requested may exceed 60 minutes of staff time, they will provide an estimate of the amount of time; the applicant will be required to deposit the corresponding amount with Metro before the research and retrieval will begin. Any amounts deposited which exceed the actual research and retrieval costs will be returned to the applicant. Any deficiency in the amount deposited compared with the actual charges determined after the search and retrieval have been completed must be paid by the applicant prior to Metro continuing to research, review and retrieve records or prior to the requestor reviewing the records, whichever comes first. Where an individual or entity has made multiple requests for inspection of records within a 30-day period, the individual or entity shall only be entitled to 60 minutes of free search and retrieval within that 30 days. Additional time spent on search requests will be charged for the full amount of search time at \$33 per hour.

Copying and Transmission Fees

Except as set forth below, Metro will provide the first 10 pages photocopied free of charge. Thereafter,

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the charge shall be \$0.25 per page, unless actual costs exceed that amount. Where an individual or entity has made multiple requests for inspection of records within a 30-day period, the individual or entity shall only be entitled to a total of 10 free photocopied pages within that 30 days. All other photocopies will be charged at \$0.25 per page.

Copies of audiotapes, digital recordings, and videotapes are \$25 each.

If Metro does not have the facilities for making copies of the records, the Custodian will arrange to have copies made, and the costs of such reproductions shall be paid by the applicant. In order to ensure the protection and integrity of Metro's records, Metro will also charge the applicant \$33/hour to supervise the copying of the records.

Fees for copies made at Metro, as well as those associated with costs for copies not made at Metro, must be paid prior to receipt of the copies. Whenever the copying charges are estimated to exceed \$33, Metro shall require the applicant to deposit the amount of estimated charges before copying of the records commences.

No transmission fees may be charged to the requestor for transmitting public records via electronic mail.

Specialized Document Production

Metro is not obligated to generate a record in a form not used by Metro. However, if in response to a specific request Metro, at its sole discretion, decides to generate a record in a form not used by Metro, the requestor will be charged a fee that is the actual cost of generating the record in accordance with the request. Any subsequent requests for the same or similar records may be charged a fee not in excess of the original fee. If the public record is the result of a computer printout, other than word processing, the fee will be based upon the actual incremental costs of providing the electronic services and products and a reasonable portion of the costs associated with building and maintaining the system. Prior to the generation of a record in a new form or the generation of a computer printout, Metro shall require a deposit of the estimated cost of producing the record.

For records maintained by Metro in a searchable or sortable format Metro will provide records in a searchable or sortable form, whenever appropriate and in accordance with state law.

Certification Fees

Metro will certify copies of public records upon payment of a certification fee of \$5 per document in addition to the normal fees and charges as set forth above.

QUALIFIED ACADEMIC REQUESTS

When Metro receives requests for documents from a student(s) or representative(s) of an accredited Academic Institution which directly relate to Metro's business and Metro determines, in its sole discretion, that an exchange of the information sought would be in the benefit of Metro, Metro shall consider the request a Qualified Academic Request (QAR). In such case, Metro may provide up to 120 minutes of free research and retrieval time with respect to the QAR. Any time in excess of 120 minutes will be charged at the rate of \$33 per hour and the requestor will be notified and given an estimate of this time as provided for above. In addition, Metro will provide up to 50 pages free of charge for QARs. Thereafter, copies shall be \$.25 per page as provided for above. Determinations of QAR status shall be made by the Chief Executive Officer (CEO) or a person(s) designated by the CEO.