

SOUTHWESTERN PENNSYLVANIA CORPORATION

ACCESS TO PUBLIC RECORDS POLICY

INTENT

The Right-to-Know Law, 65 P.S. §67.101 et seq. (RTKL) establishes the provision of access to public information held by Commonwealth, Local, Legislative, and Judicial agencies, as those terms are defined by the RTKL. The Southwestern Pennsylvania Corporation (SPC) does not fall within the technical definition of any agency covered by the RTKL, including a “Local Agency”. SPC nonetheless intends to honor the spirit of public access demonstrated by the RTKL and hereby sets forth the following policies, process and procedures, regarding responses by SPC to requests made for access to SPC’s records.

This Policy is generally intended to enable access to records maintained by SPC that would be subject to disclosure if the SPC were considered a “Local Agency” under the RTKL.

PUBLIC RECORDS FOR THE PURPOSE OF THIS POLICY

Public Records Generally

SPC shall generally presume that its records are “public records” subject to disclosure under this Policy unless they fall into the following categories:

- 1) any record that would be exempted from disclosure in accordance with 6.5 P.S. §67.708 if SPC were a “Local Agency”;
- 2) any record that is protected by the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege, or any other privilege recognized by a court interpreting the laws of Pennsylvania.
- 3) any record that is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.
- 4) any publication, including maps and data - both hard copy and electronic - that may be purchased from SPC by the general public for a fee.
- 5) based on the opinion of SPC’s legal counsel, any record, the disclosure of which poses a significant risk of subjecting SPC to legal liability on the basis that SPC improperly disclosed the record.

Final Determination

SPC shall have authority to make the final determination on whether a record is considered a public record under this Policy.

REQUESTS FOR PUBLIC RECORDS

Requests for public records may be oral or written.

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The requester's intended use of the record(s) is a private matter. No SPC employee or representative shall require an explanation of the use of the record(s) requested.

Oral Requests

While oral requests may be fulfilled by SPC, SPC's Open Records Officer shall authorize access to public records requested orally on a case-by-case basis.

Written Requests

SPC's policy is to honor written requests for access to records, provided that SPC has determined that the request relates to "public records" under this Policy and that would be subject to disclosure under the RTKL if RTKL applied to SPC and the written request satisfies the following requirements:

1. It is addressed to SPC's Open Records Officer at:

Vincent Massaro
SPC Open Records Officer
Southwestern Pennsylvania Corporation
425 Sixth Avenue, Suite 2500
Pittsburgh, PA 15219
PHONE: 412-391-5590
FAX: 412-391-9160
EMAIL: openrecords@spcregion.org

2. Identify a name and address to which SPC should address its response;
3. Be delivered in person, carried by US Mail or other delivery service, or sent by facsimile or email; and
4. Be sufficiently specific to enable SPC to ascertain which records are being requested. The requester may include a telephone number or email address to facilitate clarification of requests, if necessary.

Forms

Requests for SPC public records may be made using SPC's form. SPC will also accept the form available at the website of the Office of Open Records at www.openrecords.state.pa.us.

SPC shall post this information along with its Records Request Form, copy of this Policy and a link to the Commonwealth of Pennsylvania Office of Open Records on its website: <http://www.spcregion.org/>

RESPONSES

Unless a longer period of time is needed and communicated to the requester by an "interim response" as defined below, SPC shall respond to a public record request within five (5) business days of receiving it. For purposes of determining the end of the five (5) business day period, the day that a record request is received is not counted. The first day of the five (5) business day period is SPC's next business day. Further, if prepayment of fees is necessary to process the request and such fees are estimated to exceed \$100, SPC may require prepayment of the fee prior to fulfilling the request. The time period for response shall be tolled from the time SPC demands payment until such time as payment is actually received.

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The SPC Open Records Officer may respond by providing a requester with access to inspect a record electronically or as otherwise maintained by SPC, either:

- 1) by providing access in the offices of SPC;
- 2) by sending a copy to the requester via email or United States mail; or
- 3) by notifying the requester that the record is available through publicly accessible electronic means.

Each of these options is considered a "response" to a record request under this Policy. In addition, SPC may respond with written notice to the requester granting, denying or partially granting and partially denying access to a record. SPC may send written notices to requesters by United States mail, by hand (in person or by delivery service), by facsimile or, by email.

Interim Responses

The SPC Open Records Officer may provide the requester written notice that additional time beyond the 5-day response period will be required to respond to the request. That notice is referred to as an "interim response."

The Open Records Officer may send an interim response if any of the following apply:

1. The request requires redaction of a public record;
2. The request requires retrieval of a record from a remote location;
3. A response within the five (5) business day period cannot be accomplished due to bona fide staffing limitations, which shall be specified in the interim response;
4. A legal review is necessary to determine whether the record requested is a public record that would be subject to public disclosure under the RTKL and that disclosure of the record does not unduly expose SPC to potential legal liability;
5. The requester has not complied with SPC's policies regarding access to public records;
6. The requester has not complied with SPC's demand for prepayment of fees required to fulfill the record request, which are estimated to exceed \$100; or
7. The extent or nature of the request precludes a response within the required time period.

An interim response shall:

1. be sent to the requester on or before the last day of the five (5) business day period;
2. state that the request is being reviewed and the reason for the review;
3. give an estimate of applicable fees owed when the record becomes available; and
4. state a reasonable date that a response is expected to be provided. In general, this date shall not be more than thirty (30) calendar days from the end of the five (5) business day period.

Final Responses

There are three possible final responses. Either the request is: 1) granted; 2) denied; or 3) granted in part and denied in part. The failure to make a timely response is deemed to be a denial.

If a written request is denied in whole or in part, SPC will issue a final written response that will include an explanation of the specific reasons for the denial, including any applicable legal authority, and if the denial is the result of a determination that that the record requested is exempt from disclosure, SPC shall include specific reasons for its determination.

DOCUMENTATION

Upon receiving a request for an SPC record, the SPC Open Records Officers shall:

1. Note the date of receipt of the request;
2. Compute the day on which the 5-day response period will expire and notate the same on the written request; and
3. Maintain an electronic or paper copy of the request, including all documents submitted with the request until the request has been fulfilled. If denied the written request shall be maintained for thirty (30) days.

DENIAL

SPC may deny any request that it would be entitled to deny under 65 P.S. §67.506, if the RTKL applied to SPC.

REDACTION

SPC will redact from a record that is not otherwise exempt from disclosure, those portions that would not qualify as public records under this Policy. SPC will redact the portions of such records that are not public records and produce the portions that are public records.

ACCESS TO PUBLIC RECORDS

The regular business hours of SPC Office for the acceptance of public access requests are 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday. Any record request received by SPC after the close of regular business hours, on a weekend, a state or federal holiday, or any closure of Allegheny County or Commonwealth Offices shall be deemed to have been received by that office on the following business day.

SPC may provide a requester with access to inspect a record electronically or as otherwise maintained by SPC, either: 1) by providing access in the offices of SPC, 2) by sending a copy to the requester or 3) by notifying the requester that the record is available through publicly accessible electronic means.

SPC has the discretion to determine the room(s) within its offices that will be used to provide a requester with access to public records. The selection of room(s) for access to SPC's public records is a matter within the discretion of the SPC Open Records Officer.

SPC will provide a public record to a requester in the medium requested if the record exists in that medium. Otherwise, the public record must be provided in the medium in which it exists. If a public record only exists in one medium, SPC is not required to convert that public record to another medium, except that if the public record is only available in an electronic form, SPC must print it out on paper if the requester so requests.

SPC will provide identifiable and existing public records; however, SPC is not required to create a public record that does not already exist, nor is it required to compile, maintain, format, or organize a public record in a manner in which SPC does not currently do so.

If a requester fails to pick up requested records that have been duplicated for the requester, SPC may dispose of the copies after sixty (60) days and is not required to send reminder letters. Any fees paid to date by the requester will be retained by SPC.

DUPLICATION OF PUBLIC RECORDS

SPC may either make copies itself or, in its discretion, allow the requester to bring the necessary equipment to make its own copies. SPC may make its duplication equipment available to a requester but require that the requester operate the equipment; assign SPC staff to make the duplications; or contract for duplication services and require the requester to pay the applicable rate.

FEES

No fees for the examination of public records on site will apply. All applicable fees described below must be paid in order to receive access to the record requested.

Charges for duplication and delivery of public records are as follows:

Paper Copies

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” or 8.5” x 14” page.

The first ten pages of black-and-white paper copies shall be free of charge. Additional paper copies will be \$.10 per page.

Color copies will be \$0.25 per page for all pages.

Scanned pages will be \$0.25 per page for all pages.

If mailing is requested, the actual cost of postage will be charged.

Electronic Copies

CDs, if requested by the requestor or deemed necessary by SPC to respond, will be \$1.00 each.

If records exist in electronic form, requests for electronic records will be accommodated. Electronic files can be copied to a CD at a cost of \$1 per request. Certain files, dependent upon size, may be emailed as an attachment free of charge. If the requester is unwilling or unable to access the record electronically, the requester may, within thirty (30) days following receipt of SPC’s notification, submit a written request to SPC to have the record converted to paper. SPC shall provide access to the record in printed form within five (5) days of the receipt of the written request for conversion to paper.

Requests for records in electronic form must indicate the format required.

Records that do not exist in electronic format will not be created to satisfy a request. SPC is not required to convert that public record to another medium, except that if the public record is *only* available in an electronic form, SPC must print it out on paper if the requester so requests.

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Faxes

Fax copies will be available at the cost of \$.50 per page, plus any toll charges. This per page rate shall apply to all pages faxed, including one cover page. No document faxed shall be, in any part, free of charge.

Certification

If document certification is requested, an additional charge of \$2 per document will be added.

Prepayment

If the estimated fees that are required to fulfill the record request exceed \$100, SPC will require the requester to pay the estimated amount in advance, either by certified check or by ordinary check, which must first have cleared to be considered received by SPC. The demand for prepayment may specify a reasonable period of time in which the requester must make such prepayment. If the requester fails to make prepayment within the specified time, SPC is not is not required to produce the records requested. If the requester refuses to pay the applicable fee, the request will be deemed denied and subject to the applicable appeal procedures outlined in this Policy.

EFFECTIVE DATE

This policy is effective immediately.



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425 Sixth Avenue, Suite 2500
Pittsburgh, PA 15219-1852
Telephone: 412.391.5590
Fax: 412.391.9160
www.spcregion.org

OPEN RECORDS REQUEST FORM

DATE REQUESTED:

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

NAME OF REQUESTOR:

STREET ADDRESS:

CITY/STATE/COUNTY/ZIP (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

FOR LOCAL AGENCY USE

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS 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.)*