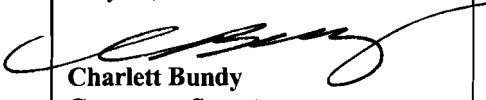


STANDARD PROCEDURES OF THE WASHINGTON SUBURBAN SANITARY COMMISSION

ORIGINATOR & POSITION Jerome K. Blask General Counsel	SP NUMBER L-07-01	APPROVED BY/DATE May 16, 2007. Attest:  Charlett Bundy Corporate Secretary	EFFECTIVE DATE July 1, 2007	PAGE 1 OF 9
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SUBJECT: REQUESTS FOR WSSC RECORDS UNDER THE MARYLAND PUBLIC INFORMATION ACT

PURPOSE

- 1.0 These regulations establish procedures for responding to requests from persons to inspect and/or copy WSSC records under the Maryland Public Information Act. It is WSSC's policy to facilitate access to its public records by minimizing costs and time delays to persons requesting inspection of public records.
- 1.1 These regulations must be interpreted consistent with the Maryland Public Information Act and, in case of conflict, the Act governs. These regulations are not intended to create any legal rights for any person beyond those in the Act.

AUTHORITY

- 2.0 The General Counsel certifies that the statutory authority for adoption of this Standard Procedure is Md. Ann. Code art 29, § 9-101, and Md. State Gov't Code Ann., §§ 10-611 through 10-628.

DEFINITIONS

- 3.0 "Act" or Maryland Public Information Act" means Md. State Gov't Code Ann., §§ 10 611 through 10-628, as amended.
- 3.1 "Applicant" means a person requesting disclosure of a public record.
- 3.2 "Custodian" means an authorized or designated WSSC employee having personal custody and control of public records of the WSSC. The Custodian would normally be the Team Chief or Office Director for the organization that has personal custody and control of the document.
- 3.3. "Official Custodian" means the person who is responsible for the maintenance, care, and keeping of WSSC's public records. Unless otherwise provided by law, the Corporate Secretary is the Official Custodian of WSSC records.

- 3.4 "Person in interest" means the person or persons described in the occurrence that was recorded in the record.
- 3.5 "Public Record" or "record" means the original or any copy of any documentary material, regardless of physical form or characteristics, including without limitation computer files and/or data, and other digital and electronic information, made or received by WSSC in connection with the transaction of public business.
- 3.6 "Working Day" means a day other than Saturday, Sunday, or WSSC holiday observed by WSSC, or a day on which WSSC is closed for official business (e.g. snow day, national day of mourning, etc.).
- 3.7 "Written request" means a document containing a request to inspect or copy records delivered in person, by mail, or by electronic means.

WHO MAY REQUEST

- 4.0 Any person may request to inspect or copy any WSSC Public Record. The Custodian must refer all written requests to inspect or copy documents to the Corporate Secretary for logging and transmittal to the General Counsel's Office.
- 4.1 Referrals of a request to the General Counsel, where appropriate, should be made within two Working Days of receipt by the Custodian or the Official Custodian, or as soon as otherwise practicable.

NECESSITY FOR WRITTEN REQUEST

- 5.0 Inspections.
- A. Except as otherwise provided in this regulation, the Custodian should generally make Public Records available for inspection by an Applicant without demanding a written request.
- B. The Custodian must require a written request if the Custodian reasonably believes that:
1. the Applicant is a party (or acting on behalf of a party) in litigation with either the WSSC or a WSSC employee; or
 2. the Act, or any other law, may prevent the disclosure of the record to the Applicant; or
 3. a written request will materially assist the Custodian in responding to the request; or
 4. the request may involve more than \$100 in employee costs to search for and prepare the requested records, or more than \$100 in reproduction costs.

5.1 Copies.

If the Applicant requests a copy of any Public Record, the Custodian may require a written request from that Applicant.

5.2 Transcripts.

Any request for a transcript of a WSSC meeting or WSSC public hearing shall be in writing.

CONTENTS OF WRITTEN REQUEST

6.0 A written request must specifically identify the record sought. The request must include the Applicant's name, address, and telephone number. If the request is unclear or unreasonably broad, the Custodian may ask the Applicant to clarify or, if possible, narrow the request. If the requested record would only be available to a "person in interest" under the Act, the Custodian may ask the Applicant to provide information to determine if the Applicant is a person in interest.

FILING WRITTEN REQUEST

7.0 The Applicant must address the written request to the record's Custodian. If the Applicant does not know the Custodian's name, the Applicant may address the request to the Corporate Secretary, WSSC, 14501 Sweitzer Lane, Laurel, MD 20707 or may submit the request electronically through a direct link provided on the WSSC internet site for these requests at www.wsscwater.com.

RESPONSE TO WRITTEN REQUEST

8.0 The Custodian shall send a copy of all written requests to inspect and copy documents to the Corporate Secretary. The Corporate Secretary shall track all requests and forward them to the General Counsel's Office for review. The Corporate Secretary shall also send a copy of a request from the news media to the Communications & Community Relations Director in addition to the General Counsel's Office.

8.1 The General Counsel's Office will review all written requests to inspect and copy documents and will advise the Custodian if there are any legal reasons to deny all or part of the request to inspect or copy documents. If the Custodian grants a written request for inspection, the Custodian must produce the record for inspection within a reasonable period of time not to exceed 30 calendar days from the date of the request.

8.2 If a person requests a copy of a Public Record that is ordinarily stored electronically by WSSC, and is otherwise subject to inspection under the Act, the Custodian shall produce the record in the electronic format in which it is ordinarily maintained by copying the record onto portable storage media such as audio tapes, video tapes, compact discs (CD) or digital media discs (DVD).

- 8.3 Any decision to deny a request or any part of a request must be reviewed by the General Counsel's Office before it is sent to the Applicant. Within 10 Working Days after a denial of all or part of a request, the Custodian must also provide the Applicant with a written statement containing the reasons for the denial, the legal authority for the denial, and notice of any remedies under the Act for review of the denial. Any denial of a request must be communicated within 30 calendar days of receipt of the written request.
- 8.4 If a requested public record is not in the custody or control of the person to whom written application is made, that person should forward the request to the appropriate Custodian within WSSC no later than 2 Working Days after receipt and send a copy of the request to the Corporate Secretary. If it is determined that the requested documents are not within the custody or control of WSSC, the person receiving the request must so notify the Applicant within 10 Working Days of receipt of the request. That person must also provide the Applicant the name of the Custodian of the record or the location or possible location of the record outside of WSSC, if known.
- 8.5 If the Custodian determines that the record requested does not exist, the Custodian shall notify the Applicant of this determination as soon as possible, but not to exceed 30 calendar days after receipt of the request. The Custodian shall send a copy of this notification to the Corporate Secretary for tracking.
- 8.6 With the consent of the Applicant, the Custodian may extend any time limit imposed by this section for an additional 30 calendar days.

NOTIFICATION OF PERSONS WHO MAY BE AFFECTED BY DISCLOSURE

- 9.0 Unless prohibited by law, in response to a request for inspection or copying, the Custodian shall make an attempt to notify any person who is reasonably known to the Custodian and who could be adversely affected by disclosure of a public record. If the Custodian decides to solicit the views of any affected person, the Custodian may consider those views before deciding whether to disclose the record to the Applicant. If the Custodian decides to disclose a record contrary to the request of that affected person, the Custodian may first provide that affected person an opportunity to file an appropriate action to prevent the disclosure.

PUBLIC RECORD TEMPORARILY UNAVAILABLE

- 10.0 If a requested Public Record is in the custody and control of the person to whom application is made but is not immediately available for inspection or copying, the Custodian shall promptly:
- A. Notify the Applicant in writing that the Public Record is not immediately available;
and
 - B. Schedule a date within a reasonable time for inspection or copying.

PUBLIC RECORD DESTROYED OR LOST

- 11.0 If the person to whom application is made knows that a requested Public Record has been destroyed or lost, that person shall promptly notify the Applicant of this fact.

REVIEW OF DENIAL

- 12.0 If the Custodian denies a request to inspect or copy all or part of a public record of the WSSC, the Applicant may, within 30 calendar days after receipt of the notice of denial, request an administrative hearing.
- 12.1 If the Applicant requests a hearing:
- A. The hearing shall be governed by Title 10, Subtitle 2 of the State Government Article and WSSC SP L-86-01, Procedure for Adjudicatory Hearings (as amended); and
 - B. The Corporate Secretary shall issue the final decision of the WSSC.
- 12.2 If the hearing results in a total or partial denial of the request, the Applicant may file an appropriate action in the Circuit Court under § 10-623 of the Act.
- 12.3 If the Applicant does not request a hearing, the Applicant may file an action for judicial enforcement under § 10-623 of the Act without exhausting that administrative remedy.

DISCLOSURE AGAINST PUBLIC INTEREST

- 13.0 Denial Pending Court Order
- A. If, in the opinion of the General Manager, disclosure of a public record of the WSSC otherwise subject to disclosure under the Act would do substantial injury to the public interest, the General Manager may temporarily deny the request for disclosure. Upon issuance of this denial, the General Counsel shall seek a court order permitting the continued denial of disclosure.
 - B. The temporary denial shall be in writing.
- 13.1 Circuit Court Review of Temporary Denial
- A. Within 10 Working Days after the denial, the General Counsel shall file a complaint with the appropriate Circuit Court, requesting an order permitting continued denial or restriction of access.
 - B. Notice of the complaint shall be served on the Applicant in the manner provided for service of process by the Maryland Rules of Procedure.

FEES

- 14.0 Before responding to a request, the Custodian may estimate in accordance with all applicable provisions of this Standard Procedure the search, preparation and reproduction costs associated with the request and present the estimate to the Applicant. After presenting the estimate to the Applicant, the Custodian may:
- A. demand prepayment of the estimated costs by the Applicant, subject to a reconciliation between the Custodian and Applicant which shall occur no later than three (3) Working Days after the final costs associated with the request received by the Custodian; or
 - B. enter into a binding agreement with the Applicant providing that the Applicant will pay to WSSC all costs associated with the request as a condition of receipt.
- 14.1 The attached Schedule A governs the fees for copying and certifying records. These fees may be amended as provided for in the WSSC's approved Fees and Charges, which can be found in the current WSSC approved Budget and is available at www.wsscwater.com.
- 14.2 If the Custodian is unable to copy a record, prepare a transcript, or otherwise comply with the Applicant's request within the WSSC, the Custodian must make arrangements for the prompt reproduction of the record at public or private facilities outside the WSSC. Before incurring such reproduction costs, the Custodian shall collect prepayment thereof from the Applicant as set forth in Paragraph 14.0, Subparagraph A of this regulation.
- 14.3 Except as provided in Paragraph 14.4, the Custodian may charge reasonable fees for the time expended searching for requested records and preparing them for inspection and copying. This fee should be related to the Custodian's actual cost (for example, the cost of any outside contractor employed, or the hourly rate of any employee assigned to do the work), and may include the cost of retrieving files from off site storage facilities.
- 14.4 The Custodian may not charge any search or preparation fee for the first two hours of time that is needed to respond to a request to inspect and/or copy Public Records.
- 14.5 Upon written request, the Custodian may waive or reduce any fee charged pursuant to this regulation if the Custodian determines that the waiver or reduction is in the public interest. The Official Custodian must consider, among other relevant factors, the ability of the Applicant to pay the cost or fee. A waiver of a fee in excess of \$50 must be approved by the General Manager.
- 14.6 If the Applicant requests that copies be mailed or delivered to the Applicant, the Custodian shall charge the Applicant for the cost of postage or delivery to the Applicant.

TIME OF INSPECTION

- 15.0 The Applicant may inspect any Public Record that the Applicant is entitled to inspect at an agreed upon time during the Custodian's normal working hours.

PLACE OF INSPECTION

- 16.0 The Applicant must inspect the records where they are maintained unless the Custodian, after taking into account the Applicant's request to inspect the records at another location, determines that another place of inspection is more suitable and convenient.

PUBLICATION

- 17.0 The Director of Communications and Community Relations shall publish notice of this regulation in at least one newspaper published in Prince George's County and one newspaper published in Montgomery County at least 30 calendar days before the regulation's effective date.
- 17.1 The Director of Communications and Community Relations shall also publish the complete text of this regulation on the WSSC internet site.

DISTRIBUTION:

Commissioners
General Manager
Internal Audit Manager
General Counsel
Corporate Secretary
Intergovernmental Relations Director
Chief of Customer Care
Chief Engineer
Chief Finance Officer
Chief of Plant Operations
Information Technology Director
Human Resources Director
Communications & Community Relations Director
Acquisition Director
Strategic Systems Management Director
Logistics Director
Small, Local, Minority Business Enterprise Director
Fair Practices Officer

SCHEDULE A – FEES

- A. *Copies.* The fee for each copy is \$.25 per page (letter or legal size) if reproduction is made by a photocopy machine within WSSC. Large size plans are \$2.50 per sheet for xerographic or \$4.00 per sheet for sepia/mylar. If records are not susceptible to photocopying (for example, electronic records, magnetic tapes, blueprints, and microfilm), the fee for copies must be based on the actual cost of reproduction incurred by WSSC.
- B. *Certification of Copies.* If a person requests that the Custodian certify a copy of a record as a true copy, the custodian may charge a fee of \$.50 per page.
- C. *Minimum Fee Charged.* The Custodian must not charge a fee if the total amount of the fee would be \$1.00 or less.

- D. *Transcripts.* If a transcript of an audio-taped meeting or hearing is requested, the fee shall be the actual cost of producing the transcript. If the transcript already exists, the fee shall be \$.25 per page.

- E. *Exceptions.* The foregoing fee provisions notwithstanding, if the fees for copies, printouts of electronic documents, photographs, or certified copies of any record are specifically prescribed by a law other than the Act or this regulation, the Custodian must charge the prescribed fee.