

CITY OF TALLAHASSEE

CITY COMMISSION AGENDA ITEM

ACTION REQUESTED ON:	December 12, 2007
SUBJECT/TITLE:	Public Records Procedures
TARGET ISSUE:	N/A

STATEMENT OF ISSUE

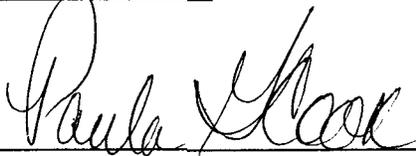
Since 1990, City employees have responded to requests for public records based on the direction provided in the Public Records Policy (Commission Policy 140). While the existing policy accurately reflects the City's intent of ensuring that requests for public record are fulfilled in an efficient and timely manner, the administrative *procedures* which govern policy implementation have been revised to reflect current practices. The language modifications primarily describe process changes that have evolved as the result of technological advances such as the use of email and other forms of electronic communication rather than any deviation from the original intent.

Both the policy and accompanying procedures have been reviewed by legal staff as well as the employees who serve as Public Records Representatives for their respective departments. The consensus is that the policy language accurately reflects the way the City should handle public records requests although the updated procedures need to be updated. As a result, no changes have been made to the governing Commission Policy but the associated procedures have been revised.

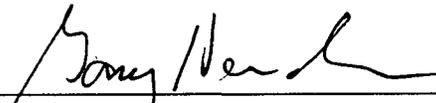
RECOMMENDED ACTION

No action required – for information only.

FISCAL IMPACT – N/A



Authorized Signature/Dept. Director Name
Originating Department/Office
For information, please contact: Paula Cook (x8162)



Gary Herndon
City Treasurer-Clerk

ITEM TITLE: PUBLIC RECORDS PROCEDURES

SUPPLEMENTAL MATERIAL/ISSUE ANALYSIS

HISTORY/FACTS & ISSUES

Prior to 1990, the City had no formal or centralized process for receiving and responding to requests for public records. However, as the result of several high profile issues, City departments quickly became inundated with numerous requests for public records that consumed hours of staff time and often resulted in several offices providing redundant information to requestors. City staff was directed to provide alternatives that would identify an office where requests would be accepted and processed. After considering various options for the most efficient system of accepting requests and disseminating the information to the requestor, the City Commission centralized this responsibility within the Treasurer-Clerk's office. Commission Policy 140 (Public Records) was adopted on October 24, 1990, and the administrative procedures for handling public records requests were provided as an attachment.

The current Public Records Policy places responsibility for accepting public records requests with the Treasurer-Clerk's office, with the objective being to ensure that requests for the review and/or copying of public records are accommodated in the most timely, efficient and cost effective manner possible. Although the policy calls for requests to be directed to the Treasurer-Clerk's office, it does not prohibit any department from providing routine assistance or information as requested. To this end, departments are encouraged to use their discretion by assisting customers with routine requests while directing them to the Treasurer-Clerk's office for other requests. Areas which involve police activity and litigation continue to be exempted from the policy, and copies of all public records requests are submitted to the City Attorney's office to ensure that issues involving litigation are flagged.

The language in the existing policy has been reviewed by representatives of all departments, and no changes to the policy are recommended at this time. However, the procedures which detail the policy's implementation have been revised to reflect current practices that have been brought about by technological changes such as the use of email. Another change in the procedures is a change in the costs for obtaining records; charges have been revised to reflect the changes in the City's business practices as well as reflect the City's compliance with the Statutes, case law and directives from State government.

OPTIONS

Provide feedback to modifications made to Administrative Procedures 206.

ATTACHMENTS/REFERENCES

Commission Policy 140
Administrative Procedures 206



CITY COMMISSION POLICY

POLICY TITLE: PUBLIC RECORDS	CITY COMMISSION POLICY NUMBER: 140 DATE ADOPTED: 10/19/1990 DATE OF LAST REVISION: 10/19/1990
140.01	AUTHORITY Florida Statutes, Chapter 119; City Commission
140.02	PURPOSE It is the sole purpose of this policy to ensure that requests for the review and/or copy of Public Records are accommodated in the most timely, efficient, and cost effective manner possible. It is not the intent of this policy to preclude employees of any department from providing routine assistance or dissemination of information to any person or persons.
140.03	SCOPE AND APPLICABILITY This policy shall not apply to the Tallahassee Police Department or the City Attorney's Office. Due to the nature of the activities conducted by those agencies, Public Records requests shall be made to and considered by the City Attorney or his designee. Upon approval of the City Attorney or his designee, it shall be the responsibility of those agencies to comply with the request. All requests for Public Records pertaining to arson investigations shall be referred to the Chief of the City Fire Department. All other Public Records requests shall be made in writing to the City Treasurer-Clerk. Requests by a City employee, in the normal course of his duty as a City employee, shall not fall under the purview of this policy.
140.04	POLICY STATEMENT It is the policy of the City of Tallahassee to comply with all requests for Public Records by making such records available for inspection by any person at reasonable times and under reasonable circumstances, and to provide copies of such records as are requested, within time frames and at costs consistent with the provisions of Chapter 119, Florida Statutes.
140.05	DEFINITIONS "Public Record" shall be as defined by Section 119.011(1), Florida Statutes, as may be amended from time to time by the Florida Legislature, but currently shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical
DEPARTMENT: CITY TREASURER-CLERK	DEPARTMENT HEAD SIGNATURE:

CITY COMMISSION POLICY

POLICY TITLE: PUBLIC RECORDS	DEPARTMENT: TREASURER-CLERK	PAGE: Page 2 of 3
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form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency (of the City).

"Exempt Public Record" shall be those records specifically exempted by Section 119.07(3), Florida Statutes, as may be amended from time to time by the Florida Legislature (see Attachment A). In the event clarification as to the intent of Section 119.07(3) is needed, the interpretation of the City shall be requested, and such opinion shall be final.

"Appointed City Official" shall mean the City Manager, City Treasurer-Clerk, City Auditor, and City Attorney.

140.06 EXCEPTIONS

Those public records which are herein determined to be Exempt Public Records pursuant to the provisions of Section 119.07(3), Florida Statutes are specifically excluded from the requirements of this policy. Such Exempt Public Records are not to be made available for inspection by nor copied for any person or persons not employed by the City and needing copies of or access to such records for the purpose of performing in his capacity as a City employee, unless so required and directed by the Appointed City Official having custody of such records or by a court of competent jurisdiction.

140.07 REQUEST FOR RESEARCH

Requests for research of City records shall not be accommodated, unless so ordered by a court of competent jurisdiction. Should the Requesting Party desire research, he may do so himself by requesting to examine Public Records pursuant to the procedures implementing this policy. In such event, however, his request must contain the specificity necessary to indicate the appropriate source records. Generic requests for the Requesting Party to conduct research in City records will not be accommodated.

140.08 REQUEST WHEN LITIGATION IS PENDING

In the event the individual requesting to review and/or copy Public Records is involved in litigation with or an investigation of the City, or is representing a third party involved in litigation with or an investigation of the City, such request shall be referred to the City Attorney's Office. At the City Attorney's direction, the request may be accommodated through the procedures implementing this policy, or may be dealt with through the City Attorney's Office.

140.09 ADMINISTRATION

The Treasurer-Clerk's Office shall be responsible for the preparation of any forms and the institution of any procedures necessary for the implementation of this policy. It shall be his responsibility to administer this policy and to recommend any amendments as may, from time to time, be appropriate.

140.10 SUNSET REVIEW

It shall be the Treasurer-Clerk's responsibility to schedule this policy for sunset review by the City Commission at least once every five years, or pursuant to such other schedule as may subsequently be adopted by the City Commission for general sunset review of City policies.

140.11 EFFECTIVE DATE

This policy shall become effective upon adoption by the City Commission.

CITY COMMISSION POLICY

POLICY TITLE: PUBLIC RECORDS	DEPARTMENT: TREASURER-CLERK	PAGE: Page 3 of 3
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Attachment A

Florida Statutes, Chapter 119 - Public Records (1989).

See City Commission Agenda Item, 10/24/90, #35.



Administrative Procedures Manual

DATE

2/26/99

NO.

206

TITLE

CITY OF TALLAHASSEE POLICY ON PUBLIC
RECORDS REQUEST PROCEDURES

ORG. AGENCY City
Treasurer- Clerk

APPROVED

10/24/90

206.01 STATEMENT OF POLICY

Any public records request ~~must~~ may be made, in writing, by electronic transmission or phone to the City Treasurer-Clerk's designee. If the Requesting Party initiates the request directly to a City department, he/she shall be referred to the Treasurer-Clerk's designee at the department's discretion, if the request is routine in nature. If the request is made in person, the Requesting Party ~~shall~~ will be requested (but not required) to complete the appropriate form. ~~section of form TC-101 (Attachment A)~~. If the request is made by telephone or letter, the Treasurer-Clerk's designee shall complete the form ~~TC-101~~ on behalf of the Requesting Party.

206.02 AUTHORITY

Chapter 119, Florida Statutes; City Commission.

206.03 OBJECTIVE

It is the sole purpose of these procedures to ensure that requests for the review and/or copy of public records are accommodated in the most timely, efficient, and cost effective manner possible. It is not the intent of these procedures to preclude employees of any department from providing routine assistance or dissemination of information to any person or persons.

206.04 SCOPE AND APPLICABILITY

These procedures shall apply to all departments of the city except the Tallahassee Police Department and the City Attorney's Office. Due to the nature of the activities conducted by those agencies, public records requests shall be made to and considered by the City Attorney or his designee. Upon approval of the City Attorney or his designee, it shall be the responsibility of those agencies to comply with the request. All other public records requests shall be made ~~in writing~~ to the City Treasurer-Clerk's designee.

206.05 DEFINITIONS

"Public Record" shall be as defined by Section 119.011(1), Florida Statutes, as may be amended from time to time by the Florida Legislature, but currently shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency (of the City).

"Exempt Public Record" shall be those records specifically exempted by Section 119.07(3), Florida Statutes, as may be amended from time to time by the Florida Legislature.

In the event clarification as to the intent of Section 119.07(3) is needed, the interpretation of the City Attorney shall be requested, and such opinion shall be final.

“Appointed City Official” shall mean the City Manager, City Treasurer-Clerk, City Auditor, and City Attorney.

“Public records request” shall mean a formal request, ~~in writing~~, for the examination or copy of specific public records, received in the offices of the City Treasurer-Clerk.

“Requesting Party” shall mean the person making a public records request, or his designee.

"Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.

206.06 RESPONSIBILITIES

Determination of Public Record

When a public records request has been made, the Treasurer-Clerk’s designee shall contact the appropriate department or departments to determine the existence and availability of the requested records. If there is any question as to whether the requested records are public records or exempt public records, the Treasurer-Clerk’s designee shall consult the City Attorney, whose ruling shall be final.

Department Representatives

Each City department shall designate to the Treasurer-Clerk a primary and secondary representative within that department to assist in complying with public records requests.

206.07 PROCEDURES

A. Request for Copies of Public Records

Upon receipt of a public records request for copies of a public record, the following steps shall be taken:

1. The Treasurer-Clerk’s designee shall notify the appropriate department representatives, via email and/or phone, of the request and forward ~~parts 2 thru 5~~ a copy of the form ~~TC-101~~ to the departmental representative, and retain the original. ~~part 1 of form TC-101.~~
2. The departmental representative shall notify the Treasurer-Clerk’s designee by phone or email of the estimated number of pages or other material involved in the request within three (3) business days. If, due to the volume of requested records, the department cannot provide the estimate to the Treasurer-Clerk’s designee within three (3) business days, the department shall provide the records or copies thereof at the earliest opportunity and notify the Treasurer-Clerk’s ~~Office~~ designee of the estimated time of compliance. ~~The departmental representative shall record the estimate on parts 2 thru 5 of form TC-101 and the Treasurer-Clerk’s designee shall record the estimate on part 1 of form TC-101.~~
3. The Treasurer-Clerk’s designee shall provide the Requesting Party with an estimate of the cost of the copies. If the Requesting Party still wants the copies of the requested records, the Treasurer-Clerk’s designee may, at his/her discretion, require prepayment of the estimated cost before any copies are made.

4. The Treasurer-Clerk's designee shall notify the departmental representative of the Requesting Party's need for the copies. The departmental representative may, at his/her option, make the requested copies and forward them to the Treasurer-Clerk's designee, or may forward the requested records to the Treasurer-Clerk's designee. In either event, the departmental representative shall make the records or copies thereof available to the Treasurer-Clerk's designee within one (1) business day. If, due to the volume of requested records, the department cannot provide the estimate to the Treasurer-Clerk's designee within one (1) business day, the department shall provide the records or copies thereof at the earliest opportunity and notify the Treasurer-Clerk's designee ~~office~~ of the estimated time of compliance. If the Treasurer-Clerk's designee is to make the requested copies, he/she shall assume full custody of, and responsibility for such records, and shall return such records to the department within three (3) business days. The departmental representative shall either ~~retain part 2 of form TC-101 for his files and complete section 3 of the form and forward a copy of the form along with the records or copies thereof to the Treasurer-Clerk's designee, or provide detailed information via email. parts 3 thru 5 to the Treasurer-Clerk's designee along with the records or copies thereof.~~
5. The Treasurer-Clerk's designee shall ~~forward parts 3 thru 5 of form TC-101 to the Revenue Division, and~~ notify the Requesting Party that the requested copies are ready to be picked up or reviewed.
6. The Requesting Party shall proceed to the ~~Revenue Division, License and Permit window~~ Treasurer-Clerk's office, and pay the amount due for the requested copies. ~~The cashier shall mark parts 3 thru 5 of form TC-101 as paid, retain part 3, and send parts 4 and 5 with the Requesting Party to the Treasurer-Clerk's designee.~~
7. The Treasurer-Clerk's designee shall provide the requested copies to the Requesting Party. ~~in exchange for part 5 of form TC-101.~~ The Treasurer-Clerk's designee shall complete the Revenue Citizen or Non-Employee Transfer of Custody form and forward to the Asset Liability Division to make payment and receive receipt. The original receipt will be given to the requesting party and a copy of the receipt will be attached to the original request.
8. Public record requests for copies of employee emails will be handled by the most efficient process as identified by the Treasurer-Clerk's designee ~~office~~ and Information Systems Services (ISS). Requests may be distributed to the Chief Information Officer, who will use the necessary tools or software to identify and assimilate all employee emails in response to the public records request. ISS will generate an electronic list or file of all emails corresponding to the request and will distribute this to the Treasurer-Clerk's designee ~~office~~. The Treasurer-Clerk's designee ~~office~~ will provide the list or file to the affected employee(s), who will have three (3) business days after receipt to purge all "personal" messages from their mailbox. The employee is solely responsible for determining the messages that are personal in nature. Upon notification from the Treasurer-Clerk's designee ~~office~~ that the personal messages have been purged OR after the three (3) day period, the Treasurer-Clerk's designee ~~office~~ will provide a copy of the email messages to the requester. Requests for emails as a component of a larger request may be forwarded to the appropriate department rather than the CIO; an example of this would be for copies of all correspondence relating to a specific project.
9. Public record requests for ~~g~~Geographic Information Systems Data (GIS) will be directed to the appropriate employee responsible for the Interlocal Government agreement for management of GIS data common to both City and County agencies. Requests for this data will only be made through request to the Tallahassee/Leon County GIS. Information on rates and data available, can be obtained at www.tlccgis.org in the "Services and data available" section of their web site. GIS data developed and maintained by City Departments and Utilities can be obtained by requesting it through the City Treasurer-Clerk's office. Access to some Utility specific sensitive data will be limited as required by regulating agencies.
10. Standard notification will be given to City officials for requests from the media and to employees for requests for personnel files and personal employee information.

11. The Requesting Party shall be charged for such copies according to the following schedule:

TYPE	SIZE	QUANTITY	COST
XEROX (1 side)	11 x 17 or smaller	1 to 5 copies	no charge
XEROX (1 side)	11 x 17 or smaller	5+ copies	15¢ per page
XEROX (2 sides)	11 x 17 or smaller	1 to 5 copies	no charge
XEROX (2 sides)	11 x 17 or smaller	5+ copies	20¢ per page
XEROX	larger than 11 x 17	each	actual cost
XEROX	large maps	each	\$2.00 & Up
Micrographic	8½ x 14	each	215¢ per page
Audio Tape	Standard Cassette	each	\$1.00
CD Disk	Standard	each	\$1.00
Communications' charge for video duplication			
Video Tape	Standard VHS	each	actual cost \$15.00
Video Tape	DVD	each	\$20.00
Miscellaneous Items		Each	actual or best estimated cost

Should the Requesting Party desire certified copies, there shall be an additional charge of \$1.00 per document so certified. (Note: Video and Audio tapes will not be certified.)

~~9. If the nature or volume of public records requested to be inspected, examined, or copied is such as to require extensive use of information technology resources (as defined above) or~~

12. If the nature or volume of public records requested to be inspected, examined, or copied is such as to require extensive use of information technology resources (as defined above) or extensive clerical or supervisory assistance by eCity personnel, the eCity may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the eCity or attributable to the City for the clerical and supervisory assistance required, or both. Such assistance may involve extensive preparation of records for inspection by masking exempted information, extensive transfers of electronic data to disk, or tape or other data file transfers, extensive investment of time to retrieve and re-file records for copying or inspection, or extensive investment of time to supervise the inspection of records.

B. Request for Examination of Public Records

Upon receipt of a public records request for examination of a public record, the following steps shall be taken.

1. The Treasurer-Clerk's designee shall forward ~~parts 2 thru 5 of form TC 101~~ a copy of the form to the departmental representative, and retain the original. ~~part 1 of form TC 101.~~
2. The departmental representative may, at his option, forward the records to be examined to the Treasurer-Clerk's designee for the examination to be conducted in the Treasurer-Clerk's offices, or may elect to have the examination conducted at the department's facilities. In either event, the department shall make the requested material available within three (3) business days after being contacted by the Treasurer-Clerk's designee ~~Office~~. If, due to the volume of or difficulty in locating or retrieving the requested records, the department cannot provide the records to the Treasurer-Clerk's designee within three (3) business days, the department shall provide the records at the earliest opportunity and notify the Treasurer-Clerk's designee ~~Office~~ of the estimated time of compliance.

3. If the departmental representative elects to have the examination conducted at the department's facilities, he shall notify the Treasurer-Clerk's designee by phone or email. The departmental representative ~~Treasurer-Clerk's designee~~ shall then coordinate the examination time and location ~~between~~ with the departmental representative and the Requesting Party. There shall be no other involvement by the Treasurer-Clerk's designee during the examination.

4. After the examination is concluded, the departmental representative shall make any necessary remarks on the form TC-101, ~~retain part 2 for his files, provide part 4 to the Requesting Party, and return parts 3 and 5 to the Treasurer-Clerk's designee. Part 3 shall be discarded by the Treasurer-Clerk's designee.~~

5. If the departmental representative elects to have the examination conducted at the Treasurer-Clerk's offices, he shall notify the Treasurer-Clerk's designee by phone or email, and forward the requested records ~~along with parts 3 thru 5 of form TC-101~~ to the Treasurer-Clerk's designee, whereupon the Treasurer-Clerk's designee shall assume full custody of and responsibility for the records. The Treasurer-Clerk's designee shall then coordinate the time and location of the examination with the Requesting Party. The Treasurer-Clerk's designee shall remain with the Requesting Party during the examination.

6. After the examination is concluded, the Treasurer-Clerk's designee shall make any necessary remarks on the form TC-101 and provide ~~part 4~~ a copy to the Requesting Party. The Treasurer-Clerk's designee shall return the records to the departmental representative within one (1) business day after the examination.

7. Should the Requesting Party desire to photograph, with his own equipment and supplies, the records being examined, he may do so as long as the records are not removed from the examination site.

8. There should be no charge to the Requesting Party for such examination.

C. Request for Copies of Public Records During Examination

1. In the event the Requesting Party determines a need for copies of certain records during his examination of those records, and the examination is being conducted at the department's facilities, the departmental representative shall make the requested copies, and the process from this point shall be as determined by steps 4 thru 7 of section 206.07.B (preceding).

2. In the event the Requesting Party determines a need for copies of certain records during his examination of those records and the examination is being conducted at the Treasurer - Clerk's office, the Treasurer - Clerk's designee shall make the requested copies, and the process from this point shall be as determined by steps 4 thru 7 of section 206.07.A. (preceding)~~(preceding)~~.

D. Abbreviated Process for Simple Requests

In the event the public records request can be easily accommodated, the Treasurer-Clerk's designee may, at his/her discretion, dictate an abbreviated process, so long as the intent of City Commission Policy 140 is met and adequate records of the request are made.

206.08 EXCEPTIONS

N/A

206.09 EFFECTIVE DATE

The effective date of this policy is October 24, 1990; minor revision February 26, 1999. Date of last revision December 2007

