



Department Policy No. 2  
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POLICY  
Version: 5.0  
Revised: November 8, 2021

## Public Records Requests

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This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### Agency Contact

Agency PRR Coordinator – Policy and Communications Bureau

### Purpose

The Idaho Department of Lands (IDL) processes public records requests (PRRs) in accordance with the Idaho Public Records Act. This policy clarifies those portions of the Idaho Public Records Act subject to department discretion.

### Scope

This policy applies to all IDL employees. Each IDL office must follow department policy for appropriately processing PRRs. IDL will make a good faith attempt to comply with the law for every public records request.

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# **I. Policy**

## **A. PRR Submittal**

### **1. How the Public May Submit a Records Request**

All Public Records Requests (PRRs) must be received in writing that specifically describes the subject matter and records sought, including a specific date range for when the records requested were created. The requesting party must be as exact as possible when requesting records. A request must describe records sought in sufficient detail to enable the public body to locate such records with reasonable effort. A request must also provide the requester's name, mailing address, email address and telephone number.

IDL's preferred method for submission of a request is completion of the public records request form found on IDL's website: [www.idl.idaho.gov](http://www.idl.idaho.gov) (select Transparency then click on Public Records Request). When submitted, the form is electronically forwarded from IDL's website to the PRR mailbox. This email account is monitored by the Boise Staff Office. PRRs may also be submitted via email to [public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov), or by hand delivery, U.S. mail, or fax. Regardless of method of submittal, all requests should provide the requester's name, mailing address, email address and telephone number.

### **2. Requests from Elected Officials**

Public records requests received either verbally or in writing from an elected official must be sent to a Public Information Officer for response ([pio@idl.idaho.gov](mailto:pio@idl.idaho.gov)). Elected officials include, but are not limited to, members of the Land Board, state legislators, county commissioners, and congressional offices.

## **B. PRR Receipt and Tracking**

### **1. Responsibilities of Agency PRR Coordinator and Area PRR Coordinators**

The assigned Coordinator for each office must track PRRs received by that office to ensure adherence to statutory timelines, and IDL policy and procedure.

The PRR is logged and all documents retained within the Public Records Request pages on IDL's intranet, commonly referred to as SharePoint. If multiple offices need to provide records to fill a PRR, it is the responsibility of the office that received the PRR to track the PRR.

### **2. Responsibilities of all IDL Employees in Receiving Requests**

If an IDL employee receives a request for record(s) through his or her email, it must be treated as a PRR, and the response process begins immediately. The employee who received the request will forward the request to the PRR Coordinator for that office on the same day received. Notification to the PRR Coordinator must occur prior to any response; a PRR number must be assigned and notated on all correspondence or records sent.

Due to the statutory time limits for responding to PRRs, all IDL employees with active email accounts must use the out-of-office assistant when they will not have access to their email

during the business day. Out-of-office messages must include the public records request link on IDL's website. [Example: "I am currently out of the office until DATE. If this is a public records request, please fill out the public records request form found on IDL's website: [www.idl.idaho.gov](http://www.idl.idaho.gov) (select "Transparency" then click on Public Records Request)."]

## **C. Responding to a Request**

### **1. Custodian Responsibility**

Once the PRR Coordinator has identified a custodian, it is the responsibility of the custodian to coordinate all activities necessary to fulfill the request. These activities may include but are not limited to:

- contacting the requester for clarification of request if needed;
- gathering records;
- working with other IDL offices to identify and retrieve any additional records necessary to fulfill the request;
- identifying key words and email addresses for electronic search;
- removing exempt information (redactions);
- coordinating legal review; and
- drafting cover letter or explanatory paragraph to be included with emailed response.

The custodian may help the requester narrow the scope of the request or make the request more specific when documents responsive to the request are likely to be voluminous or require payment. All requests for clarification and clarified responses must be documented.

The appropriate Area Manager, Operations Chief, Bureau Chief, or Executive staff member must review any non-routine or sensitive subject matter requests prior to response.

If staff knows that a particular matter within the scope of a request has been the source of litigation or enforcement action in the past or is expected to be in the future, the request must be reviewed by the agency's attorney.

The custodian must immediately contact his or her supervisor and the PRR Coordinator if it appears that it may take more than 10 business days to complete the request.

### **2. Time Limits – Three and Ten Days**

A request for records must be granted or denied within three days after receipt. If the custodian determines that a request cannot be granted within three days after receipt, IDL will acknowledge receipt of the PRR in writing and advise the requester that up to 10 business days may be necessary to retrieve the requested records. The request must be granted or denied in whole, or in part, within 10 business days. If it is determined that fulfilling the request will result in a fee for labor and/or copies, the 10 business days count will stop on the date the requester is notified of a fee due. All work to fulfill the request stops until the fee is paid. The requester has 30 calendar days to make payment. When the fee is paid, the 10 business days count will resume.

If a state agency does not respond to a PRR within 10 business days following the request, the request is deemed to be denied per Idaho Code.

### 3. Responsive Documents

Responsive documents will be provided electronically unless a hard copy is requested. All responsive documents will be converted to pdf if feasible. In no instance will records be created to fill a request.

### 4. Records Reviewed On-site

The requester may examine non-exempt files to select the specific records needed. Should a requester visit an IDL office to inspect records (view and make notes), an IDL staff member must accompany the requester to ensure that records are not altered or destroyed.

IDL must provide access to and copies/scans of records as soon as reasonable upon request. Records must be examined during normal working hours unless the Bureau Chief or Area Manager authorizes otherwise. If the designated custodian authorizes examination of records outside of regular business hours, advance payment of reasonable compensation for this added expense may be required.

## D. Fees for Processing Public Records

Pursuant to Idaho Code, except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall be charged for the first 2 hours of labor in responding to a request for public records, or for copying the first 100 pages of paper records that are requested. No per page charge will be assessed for a document already in electronic form, if provided electronically to the requester.

Fees may be established to recover the actual labor and copying costs associated with locating and copying documents if:

- The request is for more than 100 pages of paper records; or
- The request includes records from which nonpublic information must be redacted; or
- The actual labor associated with responding to requests for public records exceeds 2 hours.

If fees are charged, they must reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs must be charged at the per hour pay rate of the lowest paid administrative staff or employee of the agency who is necessary and qualified to process the request. If a request requires redactions to be made by an attorney, the rate charged shall be no more than the per hour rate of the lowest paid attorney assigned to the agency who is necessary and qualified to process the public records request.

If there is reason to believe that a requester or group of requesters is attempting to separate a request into a series of requests for the purpose of avoiding fees, IDL will aggregate such requests to determine the total fee and will charge accordingly.

The **PRR Cost Estimate Worksheet** must be completed for all PRRs when fees are anticipated. It may be determined that no fee is applicable after completion of the PRR estimate if fees total \$40 or less. No lump sum costs shall be assigned to any public records request.

Prepayment of fees associated with locating, reviewing, and copying records is required. The **Prepayment Notification Letter** must contain the PRR number in the 'RE' section and on the bottom portion that the requester returns with payment. Should the request for payment be

ignored, the PRR will be considered withdrawn 30 calendar days from the date the request for prepayment was mailed or emailed.

Once the fees are paid, fulfillment of the request will resume. Copies made, or scans made of paper documents, and time spent will be tracked. At the completion of the request, the **PRR Actual Cost Worksheet** will be completed.

If IDL has collected excess funds, the difference will be refunded to the requester.

If there are additional funds owed to IDL, the requester will be invoiced. However, if the difference owed to IDL is \$40 or less, the additional fees will be waived.

<b>PRR Fee Schedule</b>	
<ul style="list-style-type: none"><li>• <b>No charge for the first 100 copies</b></li><li>• <b>No charge for the first 2 hours of research/labor time</b></li><li>• <b>Fees will not be charged unless the total exceeds \$40.00</b></li></ul>	
Paper copies or scans	\$0.10 per page
Paper copies nonstandard size	Actual cost – varies depending on size
Labor, research, and evaluation time	Bureau staff per hour pay rate
Labor, electronic file search	IT staff per hour pay rate
Labor, administrative time	Administrative staff per hour pay rate
Labor, redactions, and attorney-client privileged review	Deputy Attorney General staff per hour pay rate
USB	\$5.00
Publication(s)	Actual cost
Postage	Actual cost

Pursuant to Idaho Code, IDL shall not charge a fee for copying or labor when the requester demonstrates release of records (i) Is likely to contribute significantly to the public's understanding of the operations or activities of the government; (ii) Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party; and (iii) Will not occur if fees are charged because the requester has insufficient financial resources to pay such fees. All three provisions must be met for IDL to waive fees. A request for fee waiver must be approved by a Division Administrator.

## **E. Denial of Request**

If a request is denied in whole or in part, the requester must be notified in writing. The notice of denial must include:

- A statement indicating that the attorney for the agency has reviewed the request, or that the agency had the opportunity to consult with an attorney and chose not to do so;
- The statutory basis for the denial; and
- A statement of the right to appeal and the time limit for appeal.

When no documents exist to fulfill a request, it is considered a denial and a denial notice will be provided to the requester.

The time limit for filing an appeal is 180 days from the mailing date of the denial notice. The sole remedy for protesting the public agency's decision is to file a petition in the district court of the county where the records or some part of them are located, requesting the court to compel the agency to make the information available or to correct the record.

## F. Exemptions

All records at IDL are presumed to be public unless an exemption applies. Following is a list of exemptions commonly cited by IDL. This list is not intended to be a complete list of exemptions allowed by Idaho Public Records Law:

- 74-104: Exemptions in federal or state law—court files of judicial proceedings
- 74-106: Personnel records, personal information, health records, professional discipline
- 74-107: Trade Secrets, production records, appraisals, bids, proprietary information
- 74-108: Archaeological, endangered species, libraries, licensing exams

Records may contain both exempt and nonexempt information. The custodian is responsible for separating the exempt from the nonexempt information, and requesting review from legal counsel if required, before supplying only the nonexempt record. It is prohibited to deny access to a record because the record contains both exempt and nonexempt information.

When any exempt information is removed from a record, the result is a partial denial, and notice of the denial must be provided to the requester in writing.

## G. Retention of Request

All PRRs and responses must be maintained for two years after the 180-day appeal period expires. In the event of a PRR appeal of denial, the PRR, denial, and any appeal records must be retained until three years after the appeal process is completed.

It is the responsibility of each office to retain PRRs and responses in accordance with IDL's retention schedule.

## II. Definitions

**Custodian** Person(s) having custody and control of the public records in question, and responsible for the research, retrieval, and delivery of public records to a requester.

**Agency PRR Coordinator** IDL employee responsible for maintaining and implementing IDL's Public Records Request policy, including periodic review as specified in policy. Additional tasks involve developing, revising, distributing, and posting guidelines, forms, templates, worksheets, and other documents pertinent to public records requests; managing the PRR pages on IDL's intranet (SharePoint); conducting training as necessary for Area PRR Coordinators; creating year-end agencywide PRR statistical report. Agency PRR Coordinator is staffed within the Policy and Communications Bureau in the Boise Staff Office and acts as primary coordinator for PRRs received by the Boise Staff Office.

**Area PRR Coordinator** IDL employee tasked with recording, forwarding, tracking, and uploading PRRs received at their respective area or staff office.

**Public Record** Includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business, prepared, owned, used, or retained by any state agency. However, personal notes created by an employee solely for their own use are not a public record as long as such personal notes are not shared with any other person or entity.

**Receipt Date** The business day that a PRR is received by IDL. If the PRR is delivered outside of business hours (after 5 p.m. local time Monday through Friday, on Saturday or Sunday, or on an observed holiday), receipt date is the first business day following delivery. The date the PRR is received is counted as "day 0" whether it is received at 8:30 a.m. or 5:00 p.m. The following business day is counted as "day 1."

**Ten Days** By or before close of business on the tenth business day following receipt date.

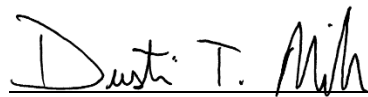
**Three Days** By or before close of business on the third business day following receipt date.

### III. References

Idaho Code [Title 74, Chapter 1](#) – Idaho Public Records Act

### IV. Implementation

This policy revision is effective immediately and will remain in effect for five years unless amended, replaced, or rescinded prior to expiration.



DUSTIN T. MILLER  
Director

November 8, 2021

Date

### V. Revision History

04-21-2011	Policy approved
05-16-2012	Version 2.0 (revision #1)
01-15-2014	Version 3.0 (revision #2)
07-22-2015	Version 4.0 (revision #3)
11-01-2021	Version 5.0 – Reorganized, clarified, reformatted.