

Tioga & Bradford County Housing & Redevelopment Authorities
Right to Know Policy and Procedure

November 2013

1. GENERAL

This policy establishes the Authority's procedures for meeting its obligations under the Pennsylvania Right to Know Law, which was revised in 2008. It applies to all requests for "public records". This document establishes the framework within which the Authority will exercise its administrative discretion in the future. The Authority recognizes the value of making information available to the public, and is committed to continually improving public access to public information and fostering public participation in the decision-making process.

The Office of Open Records may promulgate regulations setting forth different or additional requirements and procedures, and these should be consulted.

A. Open Records Officer

The Authorities have designated the following person who shall serve as the Open Records Officer. All requests for public records are administered by the Open Records Officer. Requests should be directed to the Open Records Officer as follows:

Kelley Cevette, Executive Director
4 Riverside Plaza, Blossburg, PA 16912
Phone: 570-638-2151 ext. 806, Fax: 570-638-2156
Email: kcevette@tbhra.org

B. Requests for Public Records

All Right to Know Law requests must be received by appropriate Authority's Open Records Office. A requester may make and the Authority may fulfill verbal, written (including email and fax) requests for access to records under this policy. The Authorities will not accept anonymous requests in any form. If the requester wishes to pursue the relief and remedies provided for under the Pennsylvania Right to Know Law (i.e. pursue an appeal of a denial), the request must be in writing.

Requests must describe the records sought with sufficient specificity to enable the Authority to ascertain which records are being requested. The request must include the name and address to which the response is to be sent. See Appendix A for a sample request form.

If the Authority receives a request for a public record that is not in the possession of the Authority, the Open Records Officer will: notify the requester that they do not possess the record requested; and if applicable, direct the request to appropriate persons in another agency.

C. Classification of Records

Public Records – “Public records” are defined as:

1. Information that documents a transaction or activity of the Authority, and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the Authority,
2. **Except** where a record meets any of the following:
 - a. It falls into one of the exemptions under the RTK law,
 - b. Access is restricted under any state or federal law or regulation or
 - c. It is protected by a legal privilege, such as attorney-client privilege.

Records Exempt from being Public Records

Under the law some types of records are not available to the public. In this category are personal notes, computer security information, draft minutes, notes from executive session, confidential proprietary information or trade secrets, medical information, personal identifiers, employee records, labor relations, criminal and non-criminal investigative records, non-real estate tax records, driver records, attorney-client communications, or records that if disclosed could jeopardized state or federal funds. This is a partial list of the excepted records. For a complete list the requester may request a copy of Section 708 of the Right to Know Law from the Authority. The Authority will assume that the requester is not asking for these types of records unless specifically requested. In most cases, these exempted records will be provided.

In addition, the Authority will not provide records, the disclosure of which would violate confidentiality requirements imposed by Federal law or regulations.

Records Classified as Bidding Documents

The Authorities may, from time to time, make available for purchase certain bidding documents and specifications related to the procurement of goods and services. Requests for such bidding documents under this policy shall be granted and provided in accordance with the fee schedule outlined in Appendix A. However, any such documents obtained by the requestor under the open records policy shall be used for informational purposes only. In no case may bidding documents be obtained under this policy be used for the purposes of responding to the related procurement solicitation. All such bidding documents and or specifications obtained under this open records policy shall be stamped with the notation “for informational purposes only”.

D. Procedures for Reviewing Requests for Public Records

Operating Procedures

The Authority’s Open Records Officer will ensure that the Operating Procedures described in Section II of this Policy are followed.

Reviewing Records

Following the submittal of a request the Authority will make every effort to fulfill the request within five business days of receipt by the Authority’s Open Records Officer. This may include notifying the requestor that the records will be made available for review and copying at the Authority.

If the request cannot be fulfilled in five business days, the Authority’s Open Records Officer will send written notice, including email, to the requester stating the reason(s) why additional time is needed, when the officer expects to be able to fulfill the request, and any fees that may be required. See Operating Procedures, Section II.

If the Authority’s Open Records Officer believes that a record contains confidential proprietary information or trade secrets, the Officer will notify the third party that provided the information of the request, within five days of the request. The third party will then have five days from receipt of the notice to provide input on the release of the record. The Officer will decide whether the information qualifies as

confidential proprietary information or trade secrets within ten days after that third party has received the notice.

E. Denial of request for Public Records

If an agency's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

1. A description of the record requested.
2. The specific reasons for the denial, including a citation of supporting legal authority.
3. The printed name, title, business address, business phone number, and signature of the open records officer on whose authority the denial is issued.
4. Date of the response.
5. The Procedure to appeal the denial.

F. Access to records

The Authority may respond by notifying the requestor that a record is available through publicly-accessible electronic means such as the Authority's website, or agency's website. The Authority may also provide the records electronically through email or other means such as a CD.

The Authority may also choose to make the records available for review and copying at the Authority. However, the Authority's copying facilities are limited. No record may be removed from the Authority offices except by Authority staff. If the Authority is unable to send the requested documents to the requestor, in house arrangements will be made to have them duplicated. Copying and other fees are listed in Appendix B.

II. OPERATING PROCEDURES

A. Within 5 business days of receipt of a written request by the Authority Open Records Officer:

1. Immediately upon receipt of a request the Authority Open Records Officer will date stamp the request, record the request in a logbook, compute the day that the five-day response expires and make a notation of that date on the request.

2. The Authority will do a thorough search for the records requested and determine whether they are public records as provided in the Right to Know Law.
 3. For records involving programs delegated to or contracted with another local, state or federal agency, the Authority will confer with the other agency as needed. The Authority will also confer with Authority legal counsel as needed.
 4. The Authority Open Records Officer reviews, signs, mails and logs response. A response will be sent within 5 business days of receiving any written request.
 - The response can be information about how and when the requestor can visit the Authority to view the record.
 - The response can include information that the requested materials are available upon payment of applicable fees.
 - The response can be a denial of the request in whole or in part; any denials will specify:
 - i. A description of the record requested
 - ii. The specific reasons for the denial, including a citation of supporting legal authority
 - iii. The printed name, title, business address, business phone number, and signature of the open records officer on whose authority the denial is issued
 - iv. Date of response
 - v. The procedure to appeal the denial
 - The response may be a statement that the Open Records Officer will be taking additional time (not to exceed 30 calendar days) to respond, if one or more of the following reasons applies:
 - i. Removal of confidential proprietary (or otherwise restricted) information
 - ii. Records are at a remote location
 - iii. Specified staffing limitations prevent a timely response
 - iv. Legal review is required
 - v. Requestor is not complying with the Authority's policies, including failure to pay fees
 - vi. The extent or nature of the request precludes a response within the required time period
- B. After (if) the Authority Open Records Officer responds that some or all records requested are available:

1. The Open Records Officer provides access to the records as arranged with the requestor.
2. If records are electronic, Open Records Officer arranges for computer viewing, duplication or the Authority may respond by notifying the requestor that a record is available through publicly-accessible electronic means such as the Authority's website, or another agency's website.
3. If the Authority will make copies, and copying costs exceeds \$100, the Open Records Officer collects costs before copying and logs payments. Upon delivery of the copies, the Open Records Officer collects any unpaid fees and logs payment.
4. If the requestor fails to retrieve the requested records within 60 days of the Authority's response the Authority may dispose of any copies which have not been retrieved and retain and fees paid to date.

III. APPEALS

A. Appealing the Authority's Response

The Right to Know Law provides an appeal through the Officer of Open Records. The following is a summary of that process:

If a requestor wishes to dispute the Authority's denial, the requestor must send his or her reasons to the Office of Open Records, ATTN: Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

The reasons for the dispute must be mailed within 15 business days of the mailing date indicated on the Authority's response, or if no response is provided then within 15 days of the date the request is deemed to be denied.

The requestor's dispute letter must state the grounds upon which the requester asserts that the records is a public record and shall address any grounds stated by the Authority for delaying or denying the request.

Unless the requestor agrees otherwise to the timing, the appeals officer will make a final determination within 30 calendar days of the date the dispute letter is mailed. Prior to issuing its determination, the appeals officer may, at its discretion, conduct

a hearing. The appeals officer will provide a written explanation of the reason for the decision to the requestor and the Authority. If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.

IV. PETITION FOR REVIEW

The requestor may request a review of the Appeals Officer's decision by the Court of Common Pleas. A request for such review should be filed with:

Tioga County Court of Common Pleas
118 Main Street
Wellsboro, PA 16901

Bradford County Court of Common Pleas
301 Main Streets
Towanda, PA 18848

APPENDIX B
SCHEDULE OF FEES

The Authorities shall charge a fee of \$.25 per copy. For purposes of this policy a copy shall be defined as a single sheet of 8.5" x 11" or 8.5" x 14" paper, printed on one side of the page. Copies of documents on 11" x 17" paper shall be considered to be the equivalent of two copies and as shall be provided at a fee of \$.50 per single sided page.

Copies in excess of 11"x17" cannot be provided in house by the Authorities. Fees for such oversized copies (e.g. architectural drawings) shall be based on the actual costs incurred by the Authorities to obtain such copies from an outside vendor.