

The Rights of Requesters and the Responsibilities of PWCSA Under the Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), located at § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and certain representatives of the media access to public records held by public bodies, public officials, and public employees.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

The stated purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this purpose, FOIA requires that the law be interpreted liberally, in favor of access to public records, and that any exemption allowing public records to be withheld must be interpreted narrowly.

FOIA Rights for Virginia Citizen and the Media

- You have the right to request to inspect or receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

Making a Request for Public Records from PWCSA

- You may request public records by U.S. Mail, fax, e-mail, in person, or over the phone. While written requests are helpful, FOIA does not require that your request be in writing. It is also not necessary for you to specifically state that you are requesting public records under FOIA.
 - From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives us a clear statement of what records you are requesting, so there is no misunderstanding over a verbal request. However, we cannot refuse to respond to your FOIA request if you elect not to put it in writing.
- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. It does not refer to or limit the volume or number of records that you are requesting; instead, it requires that you be specific enough so that we can identify and locate the records that you are seeking.
- Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy records; it does not apply to a situation where you are asking general questions about the work of PWCSA, nor does it require PWCSA to create a record that does not exist.
- You may choose to receive electronic records in any format used by PWCSA in the regular course of business.

- For example, if you are requesting records maintained in an Excel database, you may elect to receive those records electronically, via e-mail or on a computer disk, or to receive a printed copy of those records
- If we have questions about your request, we ask that you please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about the scope of a response to a large request. Making a FOIA request is not an adversarial process, and we may need to discuss your request with you to ensure that we understand what records you are seeking.

When requesting public records from PWCSA, you should direct your request to PWCSA's FOIA Officer, Jim Pflugshaupt. He can be reached at:

Jim Pflugshaupt
Director, Information Technology
Prince William County Service Authority
PO Box 2266
Woodbridge, Va. 22195
Phone: 703-335-7959
Email: jpflugshaupt@pwcsa.org

You may also contact him with questions you have concerning requesting records from PWCSA.

PWCSA's Responsibilities in Responding to Your Request

- PWCSA must respond to your request within five business days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.
- The reason behind your request for public records from PWCSA is irrelevant, and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow PWCSA to require you to provide your name and legal address.
- FOIA requires that PWCSA make one of the following responses to your request within the five-day time period:
 1. We provide you with the records that you have requested in their entirety.
 2. We withhold all of the records that you have requested, because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, we must send you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia that allows us to withhold the records.
 3. We provide some of the records that you have requested, but withhold other records. We must provide you with a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 4. We inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, we will include contact information for the other public body in our response to you.
 5. If it is practically impossible for PWCSA to respond to your request within the five-day

period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional business days to respond to your request, giving us a total of 12 business days to respond to your request.

- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 business days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

Costs

- A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia.
- You may have to pay for the records that you request from PWCSA. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- If we estimate in advance that it will cost more than \$200 to respond to your request, we may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five business days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that we estimate in advance the charges for supplying the public records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, PWCSA may require payment of the past-due bill before it will respond to your new FOIA request.

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. PWCSA commonly withholds records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§2.2-3705.1 (12))
- Appraisals and cost estimates of real property subject to a proposed purchase, sale, or lease, prior to the completion of such purchase, sale, or lease. (§ 2.2-3705.1(8))
- Personal information (SSN#, Driver's license #, photographs, fingerprints etc.). (§ 2.2-3705.1(10))
- Except as otherwise provided in the Virginia Public Procurement Act, information relating to the negotiation and award of a contract where competition or bargaining is involved and where the

release of such information would adversely affect the bargaining position or negotiating strategy of the public body. (§ 2.2-3705.1(12))

- Account numbers or routing information for any credit card, debit card, or other account with a financial institution. (§ 2.2-3705.1(14))
- Records that, if disclosed would jeopardize the safety and security of the Service Authority's assets or any public or private commercial office, multifamily residential, or retail building or its occupants (§ 2.2-3705.2(2))
- Until a building is completed, engineering and construction drawings and plans submitted for the permit approvals if disclosure would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. (§ 2.2-3705.2(2))
- Information that describes the design, function, operation, or access control features of any security system used to control access to or use of any automated data processing or telecommunications system. (§ 2.2-3705.2(3))
- Information concerning the prevention or response to terrorist activity or cyber attacks if disclosure of such information would reveal the location or operation of security, safety and telecom of any public building, structure or information storage facility, or telecommunications or utility equipment or systems or would jeopardize the safety of any person. (§ 2.2-3705.2(4))
- Information that would (i) reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols or (ii) jeopardize the security of any governmental facility, building, or structure or the safety of persons using such facility, building, or structure. (§ 2.2-3705.2(5))
- Proprietary information provided by private business pursuant to a promise of confidentiality and used for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by the Service Authority, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body. (§ 2.2-3705.6(3))
- Working papers and correspondence of the General Manager of the Service Authority. (§ 2.2-3705.7(2))
- Customer account information, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service. (§ 2.2-3705.7(5))