

Lancaster City Housing Authority

Right-To-Know Policy and Procedure

I. GENERAL

This policy establishes the Lancaster City Housing Authority's (LCHA) procedures for meeting its obligations under the Pennsylvania Right-To-Know Law (RTK Law), which was revised in 2008. It applies to all requests for "public records". This document establishes the framework within which the LCHA will exercise its administrative discretion in the future. The LCHA 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 additional requirements and procedures, and these should be consulted.

A. Open Records Officers

The LCHA has 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:

Robert C. Schellhamer, Executive Director
325 Church St., Lancaster, PA 17602-4201
Phone: 717-397-2835 x3044 Fax: 717-283-0417
Email: rschellhamer@lcha.ws

B. Requests for Public Records

All Right to RTK Law requests must be submitted in writing to the LCHA's Open Records Office. If the Requester wishes to pursue the relief and remedies provided for under the Pennsylvania RTK 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 LCHA 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 LCHA receives a request for a public record that is not in its possession, the Open Records Officer will: notify the Requester that the LCHA does not possess the record requested; and if applicable, direct the request to appropriate persons in another agency.

B. Classification of Records

Public Records

Public records are specifically defined under the RTK Law. The LCHA adopts the RTK Law's definition of Public Record and any subsequent clarification of the RTK Law definition arising from interpretive decisions of the RTK Law.

Records Classified as Bidding Documents

The LCHA 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 Requester under the open records policy shall be used for informational purposes only. In no case may bidding documents 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 LCHA'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 LCHA will make every effort to fulfill the request within five (5) business days of receipt by the LCHA's Open Records Officer. This may include notifying the Requestor that the records will be made available for review and copying at the LCHA.

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

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

The LCHA may also choose to make the records available for review and copying at the LCHA. However, the LCHA's copying facilities are limited. No records may be removed from the LCHA offices except by LCHA staff. If the LCHA is unable to send the requested documents to the Requester, 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 LCHA Open Records Officer:

1. Immediately upon receipt of a request the LCHA 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 LCHA will do a thorough and timely 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 LCHA will confer with the other agency as needed. The LCHA will also confer with LCHA legal counsel as needed.
4. The LCHA Open Records Officer reviews, signs, mails and logs a 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 Requester can visit the LCHA to view the records.

- 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 LCHA.
 - iii. The printed name, title, business address, business phone number, and signature of the open records officer on whose LCHA the denial is issued.
 - iv. Date of the 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 exceeding 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. Requester is not complying with the LCHA'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 LCHA Open Records Officer responds that some or all of records requested are available:
1. The Open Records Officer provides access to the records as arranged with the Requestor.
 2. If records are electronic, the Open Records Officer arranges for computer viewing, duplication or the LCHA may respond by notifying the Requester that a record is available through publicly-accessible electronic means such as the LCHA's website, or another agency's website.
 3. If the LCHA will make copies, and if copying costs exceed \$100, the Open Records Officer collects costs before copying and logs payment. Upon delivery of the copies, the Open Records Officer collects any unpaid fees and logs the payment.

4. If the Requester fails to retrieve the requested records within 60 days of the LCHA's response, the LCHA may dispose of any copies which have not been retrieved and retain any fees paid to date.

III. APPEALS

A. Appealing the LCHA's Response

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

If a Requestor wishes to dispute the LCHA's denial, the Requester must send his or her reasons to:

Office of Open Records
ATTN: Executive Director
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 LCHA's response, or if no response is provided then within 15 days of the date the request is deemed to be denied.

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

Unless the Requester 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 Requester and the LCHA. If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.

IV. PETITION FOR REVIEW

The Requester 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 the Court of Common Pleas of Lancaster County

APPENDIX A

STANDARD RIGHT-TO-KNOW REQUEST FORM

Lancaster City Housing Authority

STANDARD RIGHT-TO-KNOW REQUEST FORM

- 1. Date Requested: _____
- 2. Request Submitted By: _____E-MAIL_____U.S.MAIL_____FAX_____IN-PERSON
- 3. Name of Requester : _____
- 4. Street Address: _____
- 5. City, State, Zip Code and County (required) _____

- 6. Telephone (optional): (_____) _____ - _____
- 7. Records Requested: *(Provide as much specific detail as possible so the LCHA can identify the information)*

- 8. Do you want copies? _____Yes _____No
- 9. Do you want to inspect the records? _____Yes _____No
- 10. Do you want certified copies of the records? _____Yes _____No

(for LCHA use)

Received By: _____

Date Received: _____ **Five day response due by:** _____

If the Requester wishes to pursue the relief and remedies provided for in the Pennsylvania RTK Law, the request must be in writing. (Section 702.) Requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)

APPENDIX B

SCHEDULE OF FEES

General

No charge shall be made for agency or legal review of a record to determine whether the requested records are public records that are subject to access under the RTKL.

If the estimated fees that are required to fulfill the RTKL request exceed \$100, it may be necessary for the Requester to pay the estimated amount in advance. The demand for prepayment may specify a reasonable period of time in which the Requester must make such prepayment. If the Requester fails to make prepayment with such time, the Department will not be required to produce the requested records. In all cases, all applicable fees must be paid in order to receive access to the requested record.

Reproduction Fees

The LCHA 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" x 17" cannot be provided in house by the LCHA. Fees for such oversized copies (*e.g.* architectural drawings) shall be based on the actual costs incurred by the LCHA to obtain such copies from an outside vendor.

Administrative Fees - Reasonable and Necessarily Incurred Costs

As expressly provided by the RTKL (65 P.S. § 67.1307(g)), the LCHA has the authority to charge Requester reasonable fees for necessarily incurred costs. The LCHA will charge a document retrieval fee of \$15.00 per hour for administrative time, which shall be billed in one-quarter hour increments.