

**PUBLIC RECORDS POLICY
FOR
THE TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for the Tennessee Department of Economic and Community Development (“TNECD”) is hereby adopted by the Executive Leadership Team of TNECD to provide economical and efficient access to public records as provided under the Tennessee Public Records Act (“TPRA”) in Tenn. Code Ann. § 10-7-501, et seq.

The TPRA provides that all state, county and municipal records shall, at all times during business hours, which for public hospitals shall be during the business hours of their administrative offices, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of TNECD are presumed to be open for inspection unless otherwise provided by law.

Personnel of TNECD shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of TNECD, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for TNECD or to the Tennessee Office of Open Records Counsel (“OORC”).

This Policy is posted online at <http://www.tn.gov/ecd/section/ecd-legal>. This Policy shall be reviewed every two years.

This Policy shall be applied consistently throughout the various offices, departments, and/or divisions of TNECD.

I. Definitions:

- a. Records Custodian: The office, official or employee lawfully responsible for the direct custody and care of a public record. See *Tenn. Code Ann. § 10-7-503(a)(1)(C)*. The records custodian is not necessarily the original preparer or receiver of the record.

- b. Public Records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. See *Tenn. Code Ann. § 10-7-503(a)(1)(A)*.
- c. Public Records Request Coordinator: The individual, or individuals, designated in Section III, a.iii of this Policy who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA. See *Tenn. Code Ann. § 10-7-503(a)(1)(B)*. The Public Records Request Coordinator may also be a records custodian.
- d. Requestor: A person seeking access to a public record, whether it is for inspection or duplication.

II. Requesting Access to Public Records

- a. Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee or via online submission in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- b. Requests for inspection only cannot be required to be made in writing. The PRRC should request a mailing or email address from the requestor for providing any written communication required under the TPRA.
- c. Requests for inspection may be made orally or in writing using the attached Public Records Request Form at 312 Rosa L. Parks Ave., 27th Floor, Nashville, Tennessee 37243, by fax at 615-399-0447, or by email at ECD.PublicRecords@tn.gov.
- d. Requests for copies, or requests for inspection and copies, may be made in writing using the attached Public Records Request Form at 312 Rosa L. Parks Ave., 27th Floor, Nashville, Tennessee 37243, by fax at 615-399-0447, or by email at ECD.PublicRecords@tn.gov.
- e. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID) is required as a condition to inspect or receive copies of public records.
- f. TNECD provides certain records on its website at <http://tn.gov/transparenttn/section/openecd>. Such records include the FastTrack Project Database, Community Grants, Baseline and Performance Reports, information related to TNInvestco and Film Incentives, the Incentives Dashboard,

Tax Incentives, and the Tax Credit Analysis prepared by the Anderson Economic Group.

III. Responding to Public Records Requests

a. Public Records Request Coordinator

- i. The PRRC shall review public record requests and make an initial determination of the following:
 1. If the requestor provided evidence of Tennessee citizenship;
 2. If the records requested are described with sufficient specificity to identify them; and
 3. If TNECD is the custodian of the records.
- ii. The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
 1. Advise the requestor of this Policy and the elections made regarding:
 - a. Proof of Tennessee citizenship;
 - b. Form(s) required for copies;
 - c. Fees and labor threshold and waivers; and
 - d. Aggregation of multiple or frequent requests.
 2. If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:
 - a. The requestor is not, or has not presented evidence of being, a Tennessee citizen.
 - b. The request lacks specificity.
 - c. An exemption makes the record not subject to disclosure under the TPRA.
 - d. TNECD is not the custodian of the requested records.
 - e. The records do not exist.
 3. If appropriate, contact the requestor to see if the request can be narrowed.
 4. Forward the records request to the appropriate records custodian in TNECD.
 5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known.
- iii. The designated PRRC is:

1. Name or title: Garrett E. Guillory, Director of Contracts

2. Contact information:

312 Rosa L. Parks Ave., 27th Floor,

Nashville, Tennessee 37243

615-532-6346

Garrett.E.Guillory@tn.gov

b. Records Custodian

- i. Upon receiving a public records request, a records custodian shall promptly make requested public records available in accordance with *Tenn. Code Ann. § 10-7-503*. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, counsel, or the OORC.
- ii. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed Public Records Request Response Form which is attached as Public Record Request Response Form, based on the form developed by the OORC.
- iii. If a records custodian denies a public record request, he or she shall deny the request in writing as provided in Section III.a.ii.2 using the Public Records Request Response Form.
- iv. If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall use the Public Records Request Response Form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.
- v. If a records custodian discovers records responsive to a records request were omitted, the records custodian should contact the requestor concerning the omission and produce the records as quickly as practicable.

c. Redaction

- i. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. If questions arise concerning redaction, the records custodian should coordinate with counsel or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC or with the Office of Attorney General and Reporter.
- ii. Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

IV. Inspection of Records

- a. There shall be no charge for inspection of open public records.
- b. The location for inspection of records within the offices of TNECD should be determined by either the PRRC or the records custodian.
- c. Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

V. Copies of Records

- a. A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- b. Copies will be available for pickup at a location specified by the records custodian.
- c. Upon payment for postage, copies will be delivered to the requestor's home address by the United States Postal Service.
- d. Copies may be delivered electronically by email or thumb drive. TNECD will use a thumb drive if the electronic documents exceed the state's file size limitations for e-mail attachments.
- e. A requestor may not be allowed to make copies of records with personal equipment.

VI. Fees and Charges and Procedures for Billing and Payment

- a. Fees and charges for copies of public records should not be used to hinder access to public records.

- b. Records custodians shall provide requestors with an itemized estimate of the charges prior to producing copies of records and may require pre-payment of such charges before producing requested records.
- c. When fees for copies and labor do not exceed \$100, the fees may be waived. Requests for waivers for fees above \$100 must be presented to the Executive Leadership Team of TNECD, who is authorized to determine if such waiver is in the best interest of TNECD and for the public good. Fees associated with aggregated records requests will not be waived.
- d. Fees and charges for copies are as follows:
 - i. \$0.15 per page for letter- and legal-size black and white copies.
 - ii. \$0.50 per page for letter- and legal-size color copies.
 - iii. \$5.00 per thumb drive.
 - iv. Labor when time exceeds 1 hour.
 - v. If an outside vendor is used, the actual costs assessed by the vendor.
 - vi. No duplication costs will be charged for requests for fewer than 50 pages.
- e. Payment is to be made by personal check payable to "Tennessee Department of Economic and Community Development" presented to the PRRC.
- f. Payment in advance will be required when costs are estimated to exceed \$100.00.
- g. Aggregation of Frequent and Multiple Requests
 - i. TNECD will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than four (4) requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).
 - ii. The level at which records requests will be aggregated is by agency.
 - iii. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

To:

[Insert Governmental Entity Name and Name and Contact Information for the Public Records Request Coordinator]

From:

[Insert Requestor's Name and Contact Information (include an address for any TPRA required written response)]

Is the requestor a Tennessee citizen? Yes No

- Request:** Inspection (The TPRA does not permit fees or require a written request for inspection onlyⁱ.)
 Copy/Duplicate

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$ _____? If so, initial here: _____.

Delivery preference: On-Site Pick-Up USPS First-Class Mail
 Electronic Other: _____

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

Signature of Requestor

Date Submitted

Signature of Public Records Request Coordinator and Date Received

ⁱ Note, Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of private records of a utility.

PUBLIC RECORD REQUEST RESPONSE FORM

Governmental Entity Name and Address: _____

Date: _____

Requestor's Name and Contact Information: _____

In response to your records request received on _____ our office is taking the action(s)¹ indicated below: *[Date Request Received]*

The public record(s) responsive to your request will be made available for inspection:

Location: _____

Date & Time: _____

Copies of public record(s) responsive to your request are:

Attached;

Available for pickup at the following location:

_____ ; or

Being delivered via: USPS First-Class Mail Electronically Other: _____.

Your request is denied on the following grounds:

Your request was not sufficiently detailed to enable identification of the specific requested record(s). You need to provide additional information to identify the requested record(s).

No such record(s) exists or this office does not maintain record(s) responsive to your request.

No proof of Tennessee citizenship was presented with your request. Your request will be reconsidered upon presentation of an adequate form of identification.

You are not a Tennessee citizen.

You have not paid the estimated copying/production fees.

The following state, federal, or other applicable law prohibits disclosure of the requested records:

_____.

It is not practicable for the records you requested to be made promptly available for inspection and/or copying because:

It has not yet been determined that records responsive to your request exist; or

The office is still in the process of retrieving, reviewing, and/or redacting the requested records.

The time reasonably necessary to produce the record(s) or information and/or to make a determination of a proper response to your request is: _____.

If you have any additional questions regarding your record request, please contact [Records Custodian or Public Records Request Coordinator].

Sincerely,

[Name, Title, and Contact Information]

¹ If all requested records do not have the same response, so indicate.