

**RULES
OF THE
TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

**CHAPTER 0500-09-01
ACCESS TO PUBLIC RECORDS**

TABLE OF CONTENTS

0500-09-01-.01	Purpose	0500-09-01-.07	Fees and Charges and Procedures for Billing and Payment
0500-09-01-.02	Definitions		
0500-09-01-.03	Requesting Access to Public Records.	0500-09-01-.08	Aggregation of Frequent and Multiple Requests
0500-09-01-.04	Responding to Public Records Requests		
0500-09-01-.05	Inspection of Public Records	0500-09-01-.09	Failure to Inspect Copies or Failure to Pay
0500-09-01-.06	Copies of Public Records		

0500-09-01-.01 PURPOSE.

The purpose of these rules is to establish procedures regarding Public Records requests received by the Tennessee Department of Economic and Community Development and to provide economical and efficient access to Public Records as provided under the Tennessee Public Records Act.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.02 DEFINITIONS.

- (1) As used in these rules, the following terms are defined as follows:
- (a) "ECD" means the Tennessee Department of Economic and Community Development.
 - (b) "Office of Open Records Counsel" or "OORC" means the office established pursuant to Tenn. Code Ann. §§ 8-4-601 et seq., or any successor office or entity.
 - (c) "Public Records" means 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 in connection with the transaction of official government business by any governmental entity, not otherwise protected by law or exempt from disclosure under the TPRA.
 - (d) "Public Records Request Coordinator" or "PRRC" means the individual, or individuals, designated in 0500-09-01.03(1)(c) of these rules 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. The Public Records Request Coordinator may also be a records custodian.
 - (e) "Records Custodian" means the office, official or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
 - (f) "Requestor" means a person seeking access to a public record, whether it is for inspection or duplication.
 - (g) "TPRA" means the Tennessee Public Records Act.

(Rule 0500-09-01-.02, continued)

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.03 REQUESTING ACCESS TO PUBLIC RECORDS.

- (1) Public records requests shall be made to the PRRC or his/her designee in order to ensure public records requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- (2) Requests for inspection only are not required to be made in writing. The PRRC will request a mailing or email address from the Requestor for providing any written communication required under the TPRA.
- (3) Requests for inspection may be made orally or in writing using ECD's Public Records Request Form, available on ECD's official State of Tennessee website under the "Legal" tab, at 312 Rosa L. Parks Ave., 27th Floor, Nashville, Tennessee 37243, by telephone at 615-532-6346, by fax at 615-399-0447, or by email at ECD.PublicRecords@tn.gov.
- (4) Requests for copies, or requests for inspection and copies, may be made in writing using the Public Records Request Form, available on ECD's official State of Tennessee website under the "Legal" tab, 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.
- (5) A request for inspection or copies of Public Records shall be sufficiently detailed to enable ECD to identify the specific records requested for inspection or copies.
- (6) 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. Submission of a request on business letterhead with a business address in Tennessee will also be accepted. Records will be sent to the Tennessee address on the letterhead and not to any other address.
- (7) ECD reserves the right to request additional identification if the validity of the identification or business address presented is in question. The Requestor will be notified, in writing when possible, of the need for additional documentation.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.04 RESPONDING TO PUBLIC RECORDS REQUESTS.

- (1) Public Records Request Coordinator.
 - (a) The PRRC shall review public record requests and make an initial determination of the following:
 1. If the Requestor provided evidence of Tennessee citizenship pursuant to Rule 0500-09-01-.03;
 2. If the records requested are described with sufficient specificity to identify them;
 3. If ECD is the custodian of the records; and
 4. If the records requested or any of their contents are not subject to disclosure based on applicable federal or state laws or rules.

(Rule 0500-09-01-.04, continued)

- (b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
1. Advise the Requestor of any elections made regarding:
 - (i) Proof of Tennessee citizenship pursuant to Rule 0500-09-01-.03;
 - (ii) Form(s) required for copies;
 - (iii) Fees and labor threshold and waivers; and
 - (iv) Aggregation of multiple or frequent requests.
 2. If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:
 - (i) The Requestor is not, or has not presented evidence of being, a Tennessee citizen.
 - (ii) The request lacks specificity. ECD may work with the Requestor to clarify the request.
 - (iii) An exemption makes the record not subject to disclosure under the TPRA. ECD will notify the Requestor of the specific exemption.
 - (iv) ECD is not the custodian of the requested records.
 - (v) 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 ECD.
 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.
- (c) The designated PRRC is the Director of Contracts of ECD; provided, however, that the responsibilities of the PRRC under this Rule may be delegated to one or more employees under the direction of the PRRC. The PRRC may be contacted at:

Tennessee Department of Economic and Community Development
ECD Legal
312 Rosa L. Parks Ave., 27th Floor,
Nashville, Tennessee 37243
Telephone: 615-532-6346
Email: ECD.PublicRecords@tn.gov

(2) Records Custodian.

- (a) Upon receiving a Public Records request, a records custodian shall promptly make requested Public Records available in accordance with T.C.A. § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, legal counsel, or the OORC.

(Rule 0500-09-01-.04, continued)

- (b) 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.
 - (c) If a records custodian denies a public record request, the Requestor shall be notified in writing.
 - (d) 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 notify the Requestor in writing 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.
 - (e) 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.
- (3) Redaction.
- (a) 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 legal 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.
 - (b) 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.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.05 INSPECTION OF PUBLIC RECORDS.

- (1) There shall be no charge for inspection of open Public Records.
- (2) The location for inspection of records within the offices of ECD will be determined by either the PRRC or the records custodian.
- (3) 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.
- (4) If, after viewing the records, the Requestor wishes to obtain copies, ECD will calculate cost based on the copy and labor charges for the entire request. If the Requestor does not wish to obtain copies of all records produced, ECD will pro-rate the charges on a per-page basis.
 - (a) The Requestor will be allowed to make copies of personally inspected Public Records with his or her personal equipment including portable scanner, cell phone, or camera.

(Rule 0500-09-01-.05, continued)

- (b) The Requestor will not be allowed to connect any personal equipment directly to an ECD computer or electronic device, including but not limited to using a flash drive to make copies of Public Records.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.06 COPIES OF PUBLIC RECORDS.

- (1) A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- (2) Copies will be available for pickup at a location specified by the records custodian.
- (3) Upon payment for postage, copies will be delivered to the Requestor's home address or Tennessee business address by the United States Postal Service or other courier service.
- (4) Copies may be delivered electronically by email, flash drive, or other electronic medium. ECD will use a flash drive or other electronic medium if the electronic documents exceed the State's file size limitations for e-mail attachments.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.07 FEES AND CHARGES AND PROCEDURES FOR BILLING AND PAYMENT.

- (1) ECD will assess charges for copying and labor required to produce copies of requested Public Records based on the most current version of the Schedule of Reasonable Charges issued by the OORC. The Schedule of Reasonable Charges is available on the Tennessee Comptroller of the Treasury's website on the OORC page.
- (2) Records custodians shall provide Requestors with an itemized estimate of the charges prior to producing copies of records. Payment shall be made in advance when charges exceed \$100. If payment is not required in advance, the Requestor must agree, in writing, to pay the charges prior to ECD producing the records.
- (3) 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 ECD, who is authorized to determine if such waiver is in the best interest of ECD and for the public good. Fees associated with aggregated records requests will not be waived.
- (4) If an outside vendor is utilized to compile, review or redact Public Records in response to a Public Records request, the Requestor will be charged the vendor's costs.
- (5) Payment will be made by personal check payable to "Tennessee Department of Economic and Community Development" presented to the PRRC.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.08 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) ECD will aggregate record requests in accordance with the Reasonable Charges for 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 to be working in concert. Requests will be aggregated at the ECD level.

(Rule 0500-09-01-.08, continued)

- (2) The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC 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.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.

0500-09-01-.09 FAILURE TO INSPECT COPIES OR FAILURE TO PAY.

- (1) If a Requestor makes two (2) or more requests to view Public Records within a six (6) month period and, for each request, the Requestor fails to view the public record within fifteen (15) business days of receiving notification that the record is available to view, ECD is not required to comply with any Public Records request from the Requestor for a period of six (6) months from the date of the second request to view Public Records unless it is determined that the failure to view the Public Records was for good cause.
- (2) If a Requestor makes a request for copies of a public record and, after copies have been produced, fails to pay ECD the cost of producing such copies, ECD is not required to comply with any Public Records request from the person until the person pays for such copies; provided, that the person was provided with an estimated cost for producing the copies in accordance with state law prior to producing the copies and the Requestor agreed to pay the estimated cost for such copies.

Authority: T.C.A. §§ 4-3-702, 4-3-706, and 10-7-503. **Administrative History:** Original rules filed March 11, 2019; effective June 9, 2019.