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Department of State

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Colorado Open Records Act (CORA) Policies and Procedures

Policy Statement

The Colorado Department of State (the “Department”) administers the Colorado Open Records Act (“CORA”) (sections 24-72-201 to -206, C.R.S.) with regard to those records that are in the Department’s possession and control. This Policy statement summarizes the practices and procedures that are and have been in place in the Department with regard to its obligations under CORA. The statute requires the non-disclosure of certain public records in the Department’s files based on criteria set out in sections 24-72-202 and -204, C.R.S., while mandating public access to non-exempt public records. With various exceptions, the CORA defines a “public record” as including most writings made, maintained, or kept by the Department in connection with its official activities. *See* § 24-72-202(6). The Department must make a good faith effort to respond to requests to inspect public records while ensuring that other confidential, excepted, or exempted writings are redacted or withheld. The Department will provide electronic copies of requested public records according to the terms of the statute, the Department’s rules, and the Department’s policies and procedures under CORA.

Deadlines

The Department is allowed three business days to respond to a request. When responding to a request for public records under CORA, the Department will make every effort to respond within three working days as required by section 24-72-203(3)(b), C.R.S. If the Department uses the extension allowed in section 24-72-203, C.R.S., the office has an *additional* seven business days to respond. If the nature of the request requires more time than set out in the statute, the Department will notify the requester of the need for additional time, and the Department will make a good faith, reasonable effort to process the request as promptly as is feasible in light of the size and scope of the request, the workload of the other prior requests that the Department has received and is processing, and the technical capacity of the Department’s IT systems to search for responsive records.

In calculating the due date, the Department applies the following guidelines:

- If a request is received after 5:00 p.m., it is considered received the next business day.
- In calculating the time to respond, the day the request is received is not counted. *See* section 2-4-108, C.R.S.

- For broad, general requests, the timeframe for fulfilling a request may be put on hold while the Department attempts to clarify or narrow the request. *See Clarifying or Narrowing Requests*, below.

For requests that require a deposit or payment, the timeframe for completion of the request is put on hold until payment is received. *See Clarifying or Narrowing Requests*, below.

Clarifying or Narrowing Requests

Broad, general requests will likely be costlier to the requestor because of the staff time required to fulfill these requests. The Department may contact the requestor in an attempt to clarify or narrow a request. Requestors are encouraged to narrow by date range, email inboxes to be searched, and by specific search terms. Searching the entire office's email system and server is very time consuming, and the requests will be searched in the order in which they are received.

While not required, requestors may want to provide phone and e-mail contact information to facilitate communication regarding the request. The Department does not suggest search terms or parameters and does not create new records in response to a request. Additionally, the Department will respond to multiple, repeated and duplicative submissions as described below.

If the requestor agrees to narrow their request, the Department will ask the requestor to re-submit their request in writing with the narrowed information and the statutory timeframe will begin again. If the requestor is unwilling to narrow their request, the Department will advise the requestor of the potential fees associated with the request.

As indicated, CORA does not require the Department to create records in response to a request.

Procedures for Multiple, Repeated or Duplicative Submissions

When there are duplicative CORA requests submitted – either by one individual or by multiple requestors – that require extensive amounts of staff time and would otherwise interfere with the completion of other duties of the Department, the Department must appropriately manage and delegate its staff time so as to ensure that the processing of such requests does not interfere with the other duties of the Department.

At the Department's discretion, requests with the same or similar search terms from one requestor will be consolidated, as necessary. Each request will be handled in the order in which it is received. Once consolidated, the statutorily prescribed fee will be charged for the staff time necessary to review and respond to the consolidated request. Additionally, the timeframe within which the Department will respond to these consolidated sets of voluminous or duplicative requests will depend on IT capabilities and available staff time to compile, review and respond to the requests.

When addressing the same or similar requests from multiple requestors, the Department, at its discretion, may choose to publish the requested information on a publicly available website to satisfy its responsibilities under CORA, and will direct requestors to that website. Otherwise, the Department will respond to the requests in the order in which they are received,

will consolidate duplicative requests as necessary, and will do so utilizing the staff time allotted within position descriptions for CORA custodians within the Department.

Examples of requests to which this policy is applicable include but are not limited to:

- Multiple requests from the same requestor within the timespan of one to two days (e.g. 50 requests submitted within one day)
- Same or similar requests from the same requestor sent on a daily basis
- Same or similar requests from multiple requestors over a short timespan (e.g. 200 submissions of the same or similar request from different requestors within a week)
- Multiple requests for the same or similar search terms sent as “per day” requests instead of consolidated into a specific timeframe (e.g. searching for the same search terms on Jan. 1, Jan. 2, Jan. 3, Jan. 4, etc. versus January 2021).

Fees

The Department charges hourly fees (beyond the first hour) for all requests and requires a deposit to begin the work necessary to produce the requested records. The Department will require a deposit after the first hour of review has been exceeded.

As allowed under section 24-72-205(6), C.R.S., the Department charges a fee of \$41.37 per hour after the first hour for the staff time required to search for, retrieve, and review the responsive records.¹ *See* 8 CCR 1505-12, Rule 4.3. In extraordinary circumstances, the use of a third-party contractor may be necessary and will be discussed with the requestor in advance. The requestor must approve the cost estimate before the Department will begin work on fulfilling the records request. *See* 8 CCR 1505-12, Rule 4.4. The Department requires an advance deposit of the expected cost before it will begin completing the request. The timeframe for the Department to complete the request will be tolled between providing the cost estimate to the requestor and the requestor submitting the required deposit.

Costs associated with a request must be paid in full before the Department will produce the records. The Department does not accept credit cards. Payment must be made by check made out to the Colorado Secretary of State and delivered to “ATTN: FINANCE, CORA PAYMENT” at the following address:

Colorado Secretary of State
ATTN: FINANCE, CORA PAYMENT
1700 Broadway, Suite 550
Denver, CO 80290

¹ For additional details on the currently allowable maximum hourly fee for CORA requests, visit the [Colorado General Assembly Webpage](#).

Abandoned Requests

If the Department attempts to contact a requestor to clarify a request or discuss the scope of a request and the requestor does not respond within ten business days, the Department will automatically close the request.

The Department will hold records assembled in response to a CORA request for no more than ten business days after the requestor has been notified that the records are available. The holding period may be shorter for records which are needed for any use. Failure to inspect or pick-up the records within this timeframe will be considered an abandoned request, and the request will be automatically closed.

When a cost estimate has been sent in response to a CORA request, the Department will hold records for no more than 21 calendar days. If payment has not been received within this timeframe, the request will be considered abandoned, and the request will be automatically closed.

A request to re-open a closed request will be treated as a new request.

Abusive or Harassing Requests

Finally, while the Department is required to make a reasonable, good faith effort to respond to CORA requests within the guidelines of the statute, the Department is not required to respond to harassing or abusive communications.