

## **OPEN RECORDS POLICY DRIVE COUNCIL OF GOVERNMENTS (DRIVE)**

### **1. INTENT**

This policy is intended to enable access to public records maintained by DRIVE and to establish procedures for the receipt of and response to requests for access.

### **2. STATUTORY BASIS**

This policy is based on 65 P.S. § 67.101 et seq., Pennsylvania's Right-to-Know Act (the "Act") commonly known as the "Open Records Law," which governs the rights of the public to inspect and obtain copies of public records. Most prominently, the Act fundamentally changes the prior "Right-to-Know Law" by mandating a presumption of disclosure and shifting the burden of denial to government and other covered public entities.

### **3. DEFINITION OF A PUBLIC RECORD**

A "Public Record" as defined by the Act is any information, regardless of form, documenting a transaction or activity of an agency which is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the agency. Section 708 of the Act outlines a number of items exempted from the Act.

### **4. ACCESS TO PUBLIC RECORDS**

Unless otherwise provided by law, a public record of DRIVE is accessible for inspection and duplication by a requester in accordance with this policy. A public record will be provided to a requester in the medium requested if the public record exists in that medium; otherwise, it will be provided in the medium in which it exists. DRIVE is not required to permit use of its computers, nor should anything in this policy be interpreted as providing access to a record which is not a public record. DRIVE's public records are open for inspection and duplication upon request. The Right-to-Know Officer or designee shall cooperate fully with the requester, while also taking reasonable measures to protect DRIVE's public records from the possibility of theft and/or modification. The presence of the Right-to-Know Officer or designee is required when public records are examined and inspected. Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

All requests are to be addressed to:

Jennifer Wakeman, Executive Director, Right-to-Know Officer  
DRIVE  
418 Railroad Street, Suite 101  
Danville, PA 17821  
Phone: (570) 284-4296  
Email: [info@driveindustry.com](mailto:info@driveindustry.com)

DRIVE's Executive Director is responsible for assuring compliance with the Right-to- Know Act.

## 5. REQUEST FOR PUBLIC RECORDS

All attempts will be made to fulfill requests for public records in a timely manner.

Requests for public records may be oral or written. If the requester seeks to pursue the rights, relief, or remedies provided for under the Act, the request for public records must be in writing and addressed to the Right-to-Know Officer or other person designated by the Right- to-Know Officer.

1. Written Request – Written requests for access to public records may be on a form provided by DRIVE (see attached) or in a letter addressed to the Right-to-Know Officer. The written request must identify or describe the records sought with sufficient specificity to enable DRIVE to ascertain which records are being requested and shall include the name and address to which DRIVE should address its response and a telephone number or email address to facilitate clarification of the request, if necessary. The requester is responsible for reimbursement of the cost of reproducing the records requested. If the cost of reproducing the records is estimated to exceed \$100, the requester will be required to make a deposit equal to 50% of the estimated cost. A written request need not include any explanation of the requester's reason for reporting or intended use of the record.
2. Creation of a Public Record – When responding to a request for access, DRIVE is not required to create a public record which does not currently exist or to compile, maintain, format, or organize a public record in a manner in which it is not currently compiled, maintained, formatted, or organized.
3. Conversion of an Electronic Record to Paper – If a public record is only maintained electronically or in other non-paper media, DRIVE will, upon request, duplicate the public record on paper when responding to a request for access in accordance with this policy.
4. Redaction - DRIVE will grant access to public records according to this policy and will separate and exclude any records which are not public records or which are otherwise excluded or exempted from the definition of public records. If information subject to access is an integral part of the public record and cannot be separated, DRIVE will redact from the public record the information not subject to access and the response shall include only the information which is subject to access.
5. DRIVE'S Response - Once a written request for public records has been received by the Right-to-Know Officer, DRIVE will respond to the request within five (5) **business** days. If DRIVE does not respond within five **business** days of the receipt of the written request for access, the written request for access shall be deemed denied.

Upon receipt of a written request for access, DRIVE will determine if one of the following applies:

- (a) The requested record requires redaction; or
- (b) The requested record requires retrieval from a remote location; or
- (c) The request requires legal review to determine whether the record is a public record subject to access under this policy; or
- (d) The requester has not complied with DRIVE's policies regarding access to public records; or

(e) A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations; or

(f) The requester refuses to pay the applicable fees set forth by this policy.

Then, DRIVE will send written notice to the requester within five (5) **business** days of its receipt of the request notifying the requester that the request for access is being reviewed, the reason for the review, and a reasonable date that a response is expected to be provided.

Up to a thirty (30) day extension for one of the above reasons does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

A requester may consent in writing to an extension that exceeds thirty (30) days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Right-to-Know Officer has not provided a response by that date.

If the Right-to-Know officer responds to a requester that a copy of the requested record is available for pick-up and the requester does not retrieve the record(s) within sixty (60) days of DRIVE's response, DRIVE shall dispose of the copied record(s) and retain any fees paid by the requester to date.

If DRIVE's response is a denial of a written request for access, whether in whole or in part, a written response will be issued and will include:

1. (1) A description of the record requested.
  2. (2) The specific reason(s) for the denial.
  3. (3) The typed or printed name, title, business address, business telephone number, and signature of the public official or employee on whose authority the denial is issued.
  4. (4) Date of response.
  5. (5) The procedure to appeal the denial of access under this Act.
- (6) The following is a non-inclusive summary list of items that are not available under this policy:
    - ☐ Social Security numbers
    - ☐ Driver's license numbers
    - ☐ Employee identification number
    - ☐ Home, cellular, or personal telephone numbers
    - ☐ Personal financial information
    - ☐ Spouse's name, marital status, beneficiary, or dependent information

It is not the intent of this policy to make a document a public record that is not a public record by law.

If a written request for access is denied or deemed denied, the requester may file an appeal with the Office of Open Records or other appeals officer designee within 15 **business** days of the mailing date of DRIVE's response or within 15 **business** days of a deemed denial. The appeal shall state the grounds upon which the requester asserts the record is a public record and shall address grounds stated by the agency for delaying or denying the request.

The Office of Open Records shall make a final determination regarding the appeal within 30 days of the mailing date of the exception. A third party with direct interest in the record on

appeal may join the appeal within 15 days of receiving “actual knowledge” of the appeal but no later than the date the Office of Open Records issues a decision.

## **6. Fees**

Applicable fees may be charged by DRIVE under the Right-to-Know Act. No fees will apply for the examination of public records on site. Charges for duplication and delivery of public records are as follows:

- Copies: A “photocopy” is either a single-sided copy or one side of a double-sided black and white copy on a standard 8.5” x 11” page. The cost is 25 cents (\$0.25) per page for reproduction.
- Specialized documents: Including, but not limited to, blueprints, color copies, GIS data, and other non-standard sized documents will be the actual cost of the documents.
- Facsimile/Other Media: Actual cost of documents plus toll charges.
- Postage Fees: Fees for postage will be the actual cost of mailing.
- Inspection of Redacted Records: If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, DRIVE shall redact the non-public information. DRIVE may not charge the requester for the redaction. However, DRIVE may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- Electronic Access: If records exist in electronic form, written requests for electronic records will be accommodated. If files are copied to a CD, the cost is \$5 per request. Other fees may apply and will be for the actual production cost involved.

If the cost of reproducing the records is estimated to exceed \$100, 50% of the estimated cost is required in advance of fulfilling the request for an open record.

## **7. Posting**

A copy of this policy and the following information shall be conspicuously posted at the main office complex and on DRIVE’s website – [www.driveindustry.com](http://www.driveindustry.com)

## **8. HOW TO FILE AN APPEAL**

Office of Open Records  
Commonwealth Keystone Building  
400 North Street, Fourth Floor  
Harrisburg, PA 17120-0225 717-425-5343 - Fax  
e-mail: [openrecords@state.pa.us](mailto:openrecords@state.pa.us)  
Website – [www.openrecords.state.pa.us](http://www.openrecords.state.pa.us)

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