

York County Solid Waste Authority
Public Information Policy

I. OVERVIEW:

The York County Solid Waste Authority (Authority) is committed to fostering public participation and recognizes the important role information sharing plays in helping citizens make informed decisions. In addition to the mechanism outlined in this policy, the Authority makes information available to the public via its web site and various printed publications. The Authority's web site address is: www.ycswa.com. A list of regularly printed publications is contained in Appendix A. These publications are free.

In accordance with Pennsylvania's Right to Know Law, the Authority has established a written policy that outlines our procedure for responding to requests for information under the Right to Know Act. This policy informs the public how to obtain records as well as how to dispute a denial of a request for information. It also informs Authority staff how to respond to requests. This policy applies to all public records, both written and electronic.

Pursuant to Section 504 of the Right-to-Know Law, 65 P.S. §67.101 et seq. (RTKL), the York County Solid Waste Authority sets forth the following policies, process and procedures, regarding responses to requests made pursuant to the RTKL.

II. DEFINITIONS:

- A. ***Act or Open Records Law*** – The *Act of June 21, 1957 (P.L. 390, No. 212)*, commonly referred to as the "*Right-to-Know Law, (RTKL)*" as amended, 65 P.S. §§ 66.1-66.9 by Act 2002-50 and Act 3 of 2008 commonly known as the "Open Records Law". The principal change in the Open Records Law is the fundamental change in presumption. The Act in Section 305 states:

A record in the possession of a Commonwealth agency or local agency shall be presumed to be a public record. The presumption does not apply if the record is exempt under Section 708 of the RTKL Act, if it is protected by privilege or if it is exempt from disclosure under other federal or state law or regulation or by judicial order or decree.

- B. ***Business Day*** – Any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when the offices of the York County Solid Waste Authority are closed for all or part of the day due to a holiday, severe weather, natural or other disaster or at the request or direction of local, state or federal law enforcement officials. Record requests received after the close of regular business hours will be considered as being received on the following business day.

- C. **Deemed denied** - Any request that (i) the York County Solid Waste Authority receiving a written Open Records Request fails to respond to within the initial five (5) business day period; (ii) the York County Solid Waste Authority extends the five (5) business day period by up to thirty (30) calendar days, but then fails to respond by the end of that extended period; or (iii) the York County Solid Waste Authority notifies the Requester that it requires additional time to respond in excess of the permitted thirty (30) calendar day period.
- D. **Mailing date** - The date affixed to a response to a request for access to records, which is to be the date the response is deposited in the U.S. Mail or, for a person submitting a request, the date of the postmark on the envelope transmitting the request.
- E. **Pennsylvania Office of Open Records** - The Administrative office established in the Department of Community and Economic Development (DCED) for those purposes set forth in Section 1310 of the "Right-To-Know Law." (Act 3 of 2008).
- F. **Right to Know Officer** - Any employee of the Authority designated by the Authority's Executive Director to receive Open Records requests.
- G. **Public Record** - A record, including a financial record, of a Commonwealth or local agency that:
 - (1) is not exempt under section 708 of the Open Records Act;
 - (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
 - (3) is not protected by a privilege
- H. **Record** – Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

III. REQUESTS:

All requests for information shall be submitted to the Authority in writing. The person requesting the information must include their name, address, telephone number and signature.

Requests for information may be submitted by hand, via U.S. mail, courier, express or overnight delivery, email, or facsimile. The request must be sent or delivered to: Right to Know Officer, York County Solid Waste Authority, 2700 Blackbridge Road, York, PA 17406. The requester may complete and submit the Authority's "Request for Information Form" (see Appendix B) to fulfill these

requirements or may use the standard request form available through the Commonwealth's Office of Open Records. A copy of the Authority's "Request for Information Form" is contained in Appendix B and can also be accessed online at the Authority's website: www.ycswa.com.

The Right to Know Officer is located at the Authority's Management Center. Regular business hours at the Management Center are 8:00 a.m. to 5:00 p.m., Monday through Friday. Any RTKL request received by the Management Center after the close of regular business hours shall be deemed to have been received on the following business day.

The request must:

Identify a name and address to which the Authority should address its response;

State that the request is being made pursuant to the RTKL;

Be sufficiently specific to enable the Authority to ascertain which records are being requested; and

Be from a person who is a legal resident of the United States.

While verbal and anonymous requests may be fulfilled by the Authority, the requester cannot pursue the relief and remedies provided under the RTKL unless the request is in writing.

IV. RESPONSES

The Authority's Right to Know Officer may respond by providing a requester with access to inspect a record electronically or as otherwise maintained by the Authority either: 1) by providing access in the Authority's offices, 2) by sending a copy to the requester or 3) by notifying the requester that the record is available through publicly accessible electronic means. Each of these options is a "response" for purposes of the RTKL, as is the Authority's written notice to the requester granting, denying or partially granting and partially denying access to a record. The Authority may send written responses to requesters by U.S. mail, by hand (in person or by delivery service), by facsimile or, by e-mail.

Unless a longer period of time is needed and communicated to the requester by an "interim response", the RTKL requires that the Authority respond to an RTKL request within five business days. For purposes of determining the end of the five business day period, the day that a RTKL request is received is not counted. The first day of the five business day period is the Authority's next business day.

A. Interim Responses

The Authority must provide a final response to a RTKL request within five business days unless one or more specific conditions are satisfied and the

Right to Know Officer gives the requester written notice that additional time will be required. That notice is referred to as an “interim response.”

The Right to Know Officer may send an interim response if any of the following apply:

1. The RTKL request requires redaction of a public record;
2. The RTKL request requires retrieval of a record from a remote location;
3. A response within the five business day period cannot be accomplished due to bona fide staffing limitations, which must be specified in the interim response;
4. A legal review is necessary to determine whether the record requested is subject to access under the RTKL;
5. The requester has not complied with the Authority’s policies regarding access to public records;
6. The requester has not complied with a demand for prepayment of fees, which are required to fulfill the RTKL request and which are estimated to exceed \$100; further, if prepayment of fees is required by the Authority, the time period for response shall be tolled from the time the demand for payment is made until such time as payment is actually received; or
7. The extent or nature of the request precludes a response within the required time period.

An interim response must: 1) be sent to the requester on or before the last day of the five business day period; 2) state that the request is being reviewed and the reason for the review; 3) give an estimate of applicable fees owed when the record becomes available; and 4) state a reasonable date that a response is expected to be provided. This date must not be more than 30 calendar days from the end of the five business day period.

If the date of an expected response is in excess of 30 days following the five days allowed for in RTKL Section 901, the request will be deemed denied unless the requester has agreed in writing to the date specified in the notice.

B. Final Responses

There are three possible final responses. Either the request is: 1) granted; 2) denied; or 3) granted in part and denied in part. The failure to make a timely final response is deemed to be a denial.

If a written request is denied in whole or in part, the Authority will issue a final written response including an explanation of the appeal procedure, if the requester chooses to do so. The written denial will also set forth the specific reasons for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is exempt from disclosure, the specific reasons for the Authority's determination shall be included.

C. Redaction

The Authority will not deny access to a record based upon the fact that portions of the record are not public records and, as a result, not subject to disclosure. The Authority will redact the portions that are not public records and produce the portions that are public records.

D. Access

Under RTKL Section 701, public records are available for access during the Authority's regular business hours. The Authority will provide a public record to a requester in the medium requested if the record exists in that medium. Otherwise, the public record must be provided in the medium in which it exists. If a public record only exists in one medium, the Authority is not required to convert that public record to another medium, except that if the public record is only available in an electronic form, the Authority must print it out on paper if the requester so requests.

The Authority is not required to create a public record that does not already exist, nor is it required to compile, maintain, format, or organize a public record in a manner in which it does not currently do so.

The Authority may provide a requester with access to inspect a record electronically or as otherwise maintained by the Authority, either: 1) by providing access in the Authority's offices, 2) by sending a copy to the requester or 3) by notifying the requester that the record is available through publicly accessible electronic means.

The Authority has the discretion to determine the building(s) and room(s) that will be used to provide a requester with access to its public records. The selection of buildings and rooms for access to the Authority's public records is a matter within the discretion of the Right to Know Officer.

E. Duplication of Public Records

The Authority may either make copies itself or, in its discretion, allow the requester to bring the necessary equipment to make its own copies. The Authority may make its duplication equipment available to a requester but require that the requester operate the equipment; assign Authority staff to make the duplications; or contract for duplication services and require the requester to pay the applicable rate.

V. APPEALS

When a request is denied or deemed denied, whether in whole or in part, the requester may file an appeal with the Office of Open Records, where it will be assigned to an Appeals Officer. This appeal must be filed within 15 business days of the denial or deemed denial. The appeal must state the grounds upon which the requester asserts that the record is public, and should address any grounds stated by the Authority for delaying or denying the request. The appeal shall be sent to:

Commonwealth Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
Phone: 717-346-9903
[E-mail: openrecords@state.pa.us](mailto:openrecords@state.pa.us)

A person other than the Authority or the requester, with a direct interest in the record that is subject to an appeal, has 15 days following actual knowledge of the appeal, but no later than the date the Appeals Officer issues an order, to file a written request to provide information or to appear before the Appeals Officer in support of the requester's or the Authority's position in the appeal. The Appeals Officer may, but need not, grant the request. For further information on appeals, it is suggested that the requester review the Web site of the Office of Open Records.

VI. FEES

Applicable fees to be charged by the Authority under the RTKL are as follows:

A. Fees Determined by the Office of Open Records

Under the RTKL, the Pennsylvania Office of Open Records has the authority to establish two fees for Commonwealth agencies: Duplication, 65 P.S. §67.1307(b) and Enhanced Electronic Access (an agency may establish user fees, subject to approval by the Office of Open Records), 65 P.S. §67.1307 (e).

The fees for duplication are established by the Pennsylvania Office of Open Records, as posted on its Web site at: <http://openrecords.state.pa.us>. The Authority will charge \$.25 per page for duplication and shall charge the actual cost of producing enhanced electronic access if available for the record requested.

B. Specialized Fees

1. The Authority will charge the actual cost for postage, facsimile/microfiche or other media, as well as for

specialized documents.

2. Special rules apply to fees for transcripts of administrative proceedings:
 - (i) Prior to an adjudication becoming “final, binding and non-appealable,” transcripts may be requested through an agency, however the stenographer or court reporter is permitted to charge the regular fee for this service.
 - (ii) Following an adjudication becoming “final, binding and non-appealable,” a request for the transcript shall be treated like any other request for a record and the usual duplication fee of up to \$.25 per page will be charged.

C. Reasonable and Necessarily Incurred Costs

As expressly provided by 65 P.S. §67.1307(g), the Authority has the authority to charge requesters reasonable fees for necessarily incurred costs. The Authority will determine and charge such fees on a case by case basis.

D. General

No charge shall be made for Authority or legal review of the record to see whether the requested records are public records that are subject to production.

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, either by certified check or by ordinary check, which must first have cleared to be considered received by the Authority. 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 within the specified time, the Authority is not required to produce the records requested.

All applicable fees must be paid in order to receive access to the record requested. 65 P.S. §67.901.

VII. PRACTICAL TIPS AND OTHER MEANS OF OBTAINING INFORMATION WITHOUT UTILIZING THE RTKL

A. Assistance

The Authority produces numerous publications and maintains a web site: www.ycswa.com. For help with locating information, call the Right to Know Officer at 717-845-1066. This may provide access to the information you seek without having to utilize the RTKL. Appendix A lists the Authority's standard printed publications.

APPENDIX A

YCSWA'S LIST OF STANDARD PRINTED PUBLICATIONS

- Solid Waste Facts: community newsletter
- Waste Explorations: teacher newsletter
- The Combustor: children's newsletter
- Annual Report
- Introduction to the Authority: brochure
- York County Resource Recovery Center: brochure
- What Kind of Waste is Accepted at the York County Resource Recovery Center?: brochure
- Educational Programs: brochure
- Recycling our Resources: brochure
- Special Programs: brochure
- History of the York County Sanitary Landfill: brochure
- Licensing and Compliance: brochure
- The York County Municipal Waste Management Plan: brochure
- Let's Compost: brochure
- Biosolids Management: brochure

APPENDIX B



York County
Solid Waste Authority

Request for Information Form

Please type or print.

Request submitted by: Email Fax U.S. Mail In-Person

Date Request submitted: _____

Name & street address of requester including city/state/county/zip:

Requester's telephone number (optional): _____

Records being requested/reviewed (please specifically identify or describe the record(s) requested in enough detail so that it is clear which record(s) you are requesting:

Dates or time frame of records being requested:

Purpose of review (optional): _____

Do you want copies? YES or NO

Do you want to inspect the records? YES or NO

Do you want certified copies of records? YES or NO

****PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES ****

****IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL ****

Please return this form to:

Attention: Right to Know Officer
York County Solid Waste Authority
2700 Blackbridge Road
York, PA 17406
Ph: 717-845-1066 Fax: 717-843-1544

FOR AGENCY USE ONLY

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*