

SECTION 5 EXTERNAL

NUMBER 5.04 Guidelines for Handling Requests for Public Records

A. Boulder County Open Records Center

For records that are not already publicly available, the County accepts records requests from members of the public through the [Boulder County Open Records Center](#). County employees should ensure that members of the public inquiring about public records or wanting to make an open records request are directed to the [Boulder County Open Records Center](#) and given sufficient information to access the online portal. If a member of the public requests that an employee or department provide a single and readily available record, the employee may provide that record without requiring that the requestor use the [Boulder County Open Records Center](#). If the department or employee has any question about whether the record is a public record subject to disclosure, the department or employee must consult with the County Attorney's Office before releasing the record.

B. Contents of Records Requests

A formal request for County records must be in writing and must contain:

- The requestor's name;
- Name of organization, if any;
- Mailing address or email address (a phone number is optional but recommended);
- A statement that clearly identifies the request as a Colorado Open Records Request or "CORA" request; and
- A description of the records requested.

Requests that do not contain this information will not be accepted. If a request is made verbally or by email, the requestor will be asked to submit the request through the [Boulder County Open Records Center](#).

For any request that is broad or vague, the County may require the requestor to provide additional clarifying information before proceeding.

C. Location of Public Records

Elected officials are the official custodians of all records maintained within their respective offices. Elected officials may establish additional policies, laws, and regulations that apply to public records requests. The following elected offices do not typically receive public records requests through the [Boulder County Open Records Center](#), but may elect to do so at their discretion:

- Sheriff's Office
- District Attorney's Office
- Clerk & Recorder's Office:
 - o Recorded Documents – Requests for recorded public records are available online and at the Clerk and Recorder's website.
 - o Election Data – Election data is available through the Elections Division website.

D. Initial Review of Request for Payment of Fee Deposit

All public records requests received through the [Boulder County Open Records Center](#) are managed by the Boulder County Attorney's Office to ensure the timely and efficient handling of all public records requests.

Once the County receives a public records request, County Attorney staff will contact the custodian(s) of the records to ask for an estimate of time for the research and retrieval of records.

If the public records requested are not in the custody or control of the County, the County will notify the requestor. The notification will state in detail to the best of the County's knowledge and belief the reason for the absence of the records from the County's custody or control, the location of the records, and who has custody or control of the requested records.

If a request is for readily available County records, staff will begin processing the request. For other requests, County staff will need to take time away from their regular duties to respond to the request. Staff time involved may include:

- Contacting appropriate staff to determine if they may have responsive records;
- Determining where records may be located and how the request should be coordinated;
- Gathering records for review by County Attorney Staff;
- Review of records by County Attorney staff for confidential information, attorney/client privilege, work product, deliberate process;
- Separation or redaction of confidential information by County Attorney staff; and
- Production of records.

The County will provide an estimate of time to the requestor as soon as County Attorney staff have a general sense of how many records will need to be obtained and reviewed in order to properly respond to the request. If the estimate of time needed to research, retrieve, and review the records exceeds one hour for all staff involved, County Attorney staff will send the requestor a request for a deposit through the [Boulder County Open Records Center](#). Additional fees may be charged for copies or printouts if the requestor requests them. The requestor may review the time estimate and either pay the estimated cost or revise their request to reduce the time and cost.

Once the County receives payment (cash, check, or credit card), County Attorney staff will authorize the necessary research, review, and records production within the statutory timeframe.

The requestor must remit the deposit before the records request will be processed. If the actual time to gather and review the material exceeds the estimated time, the County may request an additional deposit. If actual charges are less than the deposit, the County will refund the balance of the deposit to the requestor.

E. Fees

The County charges fees to cover a portion of the costs of responding to public records requests. Assessment of fees will be determined by County Attorney staff in consultation with the official custodian.

1. Records Available at No Charge

- a. A single request for electronic documents retrievable within one hour.
- b. Agenda materials, which have been prepared in advance and which are in support of items scheduled for consideration by the BOCC at a future date (copying fees may still apply), unless the request exceeds fifty pages of material.
- c. Records normally produced for public information, such as the current year budget document and brochures on County services or procedures.
- d. Previously requested records contained in the public records archive or trending topics made available through the Boulder County Open Records Center.

2. Fees for Copies, Printouts, and other Tangible Formats

- a. Paper copies and printouts are \$.25 per page (double-sided). In addition, actual costs may be charged and may include staff time if the records created are in a format other than word processing or if the records are larger than the customary letter-size page.
- b. The actual cost of transmission may be charged unless the transmission is by electronic means.
- c. In the case of a request for a computer printout other than word processing, the fee may be based on the recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system.

3. Fees for Staff Time

For records requests that are estimated to have a County response time of longer than one hour, the County may charge an hourly fee for time spent responding to the request. This fee shall be no more than authorized under C.R.S. § 24-72-205(6)(b) and C.R.S. § 2-3-304(1). The County will waive the fee for the first hour of time expended in connection with the research and retrieval of the requested public records. C.R.S. § 24-72-205(6)(a). Departments may charge for time spent responding to requests, including without limitation, overseeing and managing requests, research and retrieval, searching files for specific information, or redacting documents to excise privileged, confidential, and/or non-public information.

All actual time spent on research and retrieval of requested public records will be tracked by staff and may be charged to the requestor.

F. Manipulation of Data or Creation of Records:

CORA only relates to existing public records and does not require the County to generate a record in a form not used by the County or manipulate data in response to a request. Similarly, Boulder County is not obligated to create records that would be responsive to a request. However, if the County elects to do so in response to a specific request, the custodian may charge the requestor fees as set forth by this Policy.

G. Multiple or Serial Requests.

Requestors may not avoid required fees by making multiple or serial records requests. The official custodian may, in consultation with the County Attorney, treat serial or multiple requests from the same person, entity, or group, for documents related to the same or similar subject matter as a single request for purposes of assessing fees. Requestors who are parties to litigation with the County may not supplant the discovery process by making records requests to the County; such requests relating to litigation with the County will be denied.

H. Research and Retrieval of Public Records

Upon receipt of a complete records request and payment of the required fees or deposit, County staff will coordinate with the official custodian(s) to gather and review public records that are responsive to the request. The request will also be reviewed by the County Attorney's Office for determination as to whether the requested records are (a) not subject to disclosure; (b) subject to disclosure but require redaction of certain information; or (c) subject to full disclosure, in accordance with the provisions of the CORA. County Attorney staff time will be included in any estimate for a request, if necessary.

I. Release of Public Records for Inspection

Once County staff and/or the official custodian(s) of the records have researched and retrieved records responsive to a request, and the records have been reviewed by the County Attorney's Office, the records will be released for the requestor's review and download via the Boulder County Open Records Center. The requestor will receive a notification email from the Boulder County Open Records Center with information regarding the records produced, including the reason(s) why records were redacted and/or withheld pursuant to the CORA, if applicable.

J. Time for Accessing Public Records

1. **Statutory Deadlines:** The County is typically required to respond to public records requests within three (3) working days of a request. C.R.S. § 24-72-203. However, when certain extenuating circumstances apply, this period may be extended to within ten (10) working days of the request. If the request is too broad, speculative, or voluminous to prepare in ten (10) working days, the County may request relief from the court, including attorney's fees, as provided by law.

2. **Working Days:** The time period for the County's response begins the following working day after the request is received in the Boulder County Open Records Center. Requests received on the weekends, County holidays, County closure days, or after regular business hours, are deemed received on the following working day. The County calculates "working days" under C.R.S. § 24-72-203 based on the regular business hours of the department in custody of the requested records. Working days do not include County holidays, County closure days, or time outside of regular business hours. For open records requests that involve records in the custody of multiple County departments with different business hours or different closure days, the County may calculate working days based on the department in custody of requested records with the least number of working days during the relevant time period.

H. In-Person Inspection and Copying

For on-site inspection of records, the records custodian may set the location where the requestor may view records. A requestor must not remove documents or add documents to those provided for review. The requestor must not use cameras, photocopiers, digital copiers, fax machines or any other copy, scanning or reproduction device to copy County records. Upon completion of the review, the requestor must mark the pages the requestor wishes to have copied with adhesive tabs. Copies will be made at a later time, depending upon volume. County staff will notify the requestor when the copies are available for pick-up.

If the custodian is capable of reproducing records, the custodian may do so at the rates set in the section entitled Fees, above. If the custodian does not have the facilities for making copies, printouts, or photographs of the records, the custodian may arrange for services from another facility. If other facilities are necessary, the person desiring a copy, printout or photograph of the record must pay the cost of providing them. The records must not leave the custody and possession of a County employee during this process (other than providing the items to the third-party facility for reproduction). The County is under no obligation to allow members of the public access to County computers.

I. Trade Secrets and Confidential Commercial and Financial Data

As a public entity, Boulder County's contracts and proposals received in response to Requests for Proposals ("RFPs") are public records and are generally open to public release and inspection under CORA. Whenever a person submits a contract, grant proposal, proposal received in response to an RFP, bid, or response to a solicitation of qualifications to the County, the person must specifically identify and mark any trade secrets or confidential commercial and financial data contained in their submission as "CONFIDENTIAL", as set forth by C.R.S. § 24-72-204(3)(a)(IV).

If the County receives a submission of a contract, grant proposal, proposal received in response to an RFP, bid, or response to a solicitation of qualifications that does not properly identify trade secrets or confidential commercial and financial data in the manner specified by this policy, the County may release the submission in its entirety in response to an open records request without any liability relating to public inspection of the person's trade secrets or confidential commercial and financial data as set forth by C.R.S. § 24-72-204(3)(a)(IV).

Where a person submits a contract, grant proposal, proposal received in response to an RFP, bid, or response to a solicitation of qualifications to the County, and identifies and marks any trade secrets or confidential commercial and financial data in the manner specified in this policy, the County reserves the right to release any such information if required by CORA. The County also reserves the right to withhold additional information if required by CORA.

J. Closed Request

A request for public records will be deemed closed under any of the following circumstances:

1. If records have already been made available through the Boulder County Open Records Center consistent with this Policy.

2. If records have already been made available for in-person inspection, have been inspected by the requestor, and no copies of the records are requested.

3. If records have already been made available for inspection, have been inspected by the requestor, and copies of the records have been provided consistent with this Policy.

4. If a requestor:

- Does not make arrangements for on-site review of documents within ten (10) working days after being contacted by the County for such purpose or fails to appear for a scheduled review;
- Fails to prepay a deposit for the cost of research or records or fails to pay the total of all costs within ten (10) working days of notification of the availability of records; or
- Fails to provide the County with any requested clarifications needed in order to move forward with the request within ten (10) working days after being contacted by the County for such purpose.

5. If a request has remained open longer than 30 working days, except for the following circumstances:

- The County has requested relief from the court; and/or
- The requestor and the County Attorney's Office have mutually agreed in writing to an alternative timeline for research, review, and inspection.

6. If a request has been withdrawn by the requestor.

A person whose request has been closed and who still wishes to inspect the records must submit a new request.