

Right-to-Know Law Policy

Pursuant to Section 504 of the Right-to-Know Law, 65 P.S. §67.101 et seq. (RTKL), The City of DuBois sets forth the following policies, process and procedures, regarding responses by the City to requests made pursuant to the RTKL.

I. Requests

1. A written request to the City of DuBois under the RTKL must:

- a. Be addressed to the City of DuBois Open Records Officer (“AORO”) at:

Joseph Fleming, City Manager
Open Records Officer
Kristen Dunn (Alternate)
16 W. Scribner Avenue
PO Box 408
DuBois, PA 15801
E-mail: RTK@duboispa.gov

- b. Identify a name and address to which the City should address its response;
 - c. State that the request is being made pursuant to the RTKL;
 - d. Written request may be submitted in person, by e-mail or by facsimile;
 - e. Be sufficiently specific to enable the City to ascertain which records are being requested; and
 - f. Be from a person that is a legal resident of the United States
2. While verbal requests may be fulfilled by the City, the requester cannot pursue the relief and remedies provided under the RTKL unless the request is in writing.
3. The RTKL request form is available at the website of the City of DuBois: duboispa.gov
4. The regular business hours of City’s RTKL Office are 8:00 to 4:00, Monday through Friday. Any RTKL request received by the RTKL Office after the close of regular business hours shall be deemed to have been received by that office on the following business day.
5. RTKL requests received by City will be considered “public record” information by the City and such requests may be made available for public.

II. Responses

The AORO may respond by providing a requester with access to inspect a record electronically or as otherwise maintained by the City, either: 1) by providing access in the offices of the City, 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 City's written notice to the requester granting, denying or partially granting and partially denying access to a record. The City may send written responses to requesters by United States 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” (as discussed in paragraph A below), the RTKL requires that the City respond to

an RTKL request within five business days. For purposes of determining the end of the five (5) business day period, the day that a RTKL request is received is not counted. The first day of the five (5) business day period is the City's next business day.

1. Interim Responses.

The City must provide a final response to a RTKL request within 5 business days unless one or more specific conditions are satisfied and the AORO gives the requester written notice that additional time will be required. That notice is referred to as an "interim response."

The AORO may send an interim response if any of the following apply:

- a. The RTKL request requires redaction of a public record;
- b. The RTKL request requires retrieval of a record from a remote location;
- c. A response within the five (5) business day period cannot be accomplished due to bona fide staffing limitations, which limitations must be specified in the interim response;
- d. A legal review is necessary to determine whether the record requested is subject to access under the Act;
- e. The requester has not complied with the City's policies regarding access to public records;
- f. 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 \$25; further, 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
- g. 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 5 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 (5) business day period. If the date of an expected response is in excess of 30 days following the five days allowed for in Section 901, the request will be deemed denied unless the requester has agreed in writing to the date specified in the notice.

1. 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 response is deemed to be a denial.

If a written request is denied in whole or in part, the City will issue a final written response that will include an explanation of the procedure for the requester to appeal, 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 City's determination shall be included.

2. Redaction

The City 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 City will redact the portions that are not public records and produce the portions that are public records.

3. Access

The City may provide a requester with access to inspect a record electronically or as otherwise maintained by the City, either: 1) by providing access in the offices of the City, 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 City has the discretion to determine the building(s) and room(s) that will be used to provide a requester with access to the City's public records. The selection of buildings and rooms for access to the City's public records is a matter within the discretion of the AORO.

The City 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 City 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 City must print it out on paper if the requester so requests.

The City 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 the City does not currently do so.

4. Duplication of Public Records.

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

III. 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 agency for delaying or denying the request. The appeal shall be sent to:

**Commonwealth of Pennsylvania
Office of Open Records
555 Walnut Street, Suite 605
Harrisburg, PA 17101-2234**

**Phone: 717-346-9903
Fax: 717-425-5343**

Or online at: <http://www.openrecords.pa.gov/appeals/appealform>

A person other than the City 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 agency's position in the appeal. The Appeals Officer may, but needs not, grant the request. For further information on appeals, it is suggested that the requester review the website of the Office of Open Records.

IV. Fees

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

1. Fees

The City of DuBois will charge \$.25 per page for duplication and currently does not have a fee for enhanced electronic access.

2. Specialized Fees

- a. If duplication involves more than 100 pages, payment is required before the requested documents are sent. If a requestor makes more than one request and he/she did not pay for the previous order, charges are combined for all orders and payment of the total fees are due. When a requestor accrues \$25.00 in fees, payment will be due before future documents are sent.
- b. The City of DuBois will charge the actual cost for postage, facsimile/microfiche or other media, as well as for specialized documents.
- c. Special rules apply to fees for transcripts of administrative proceedings:
 1. 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.
 2. 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 \$.25 per page will be charged.

C. Reasonable and Necessarily Incurred Costs

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

D. General

No charge shall be made for the City 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 will 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 City. 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 City 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. Any requester who has unpaid amounts outstanding to City or to any agency

under the Governor's jurisdiction, in relation to RTKL request where production was made by any such agency, will not be granted access to records under other RTKL requests until such prior amounts due have been paid in full.

When an estimated fee was not required to be paid because the estimate was \$100 or less, but actual fees are over \$100 or where the fee was under \$100, an City has the discretion to produce the records and invoice for the amount due or to require payment prior to production.