



Item #08-8-13
Consent

SACOG Board of Directors

August 13, 2008

Public Records Disclosure Policy

Issue: Whether to approve the proposed Public Records Disclosure Policy, and whether to delegate authority to the Executive Director to revise the Policy and Schedule as needed, with approval as to form by General Counsel.

Recommendation: The Government Relations & Public Affairs Committee recommends that the Board adopt the attached resolution approving the proposed Public Records Disclosure Policy and delegating authority to the Executive Director to revise the adopted Disclosure Policy as needed, with the assistance of counsel.

Committee Action/Discussion: Pursuant to state law, any local agency may adopt procedures to be followed when making its records available pursuant to the Public Records Act.

The proposed Public Records Act Disclosure Policy (Attachment B) complies with the statutory requirements governing the inspection of public records. The proposed Policy also includes two forms – the first should be submitted to SACOG by any person seeking the disclosure of documents, while the second is a form to be utilized by the SACOG's Clerk of the Board when responding to a Public Records Act request that seeks the disclosure of non-disclosable documents.

Staff also recommends that the Board delegate authority to the Executive Director to revise the Public Records Disclosure Policy with the assistance of General Counsel in approving any revisions as to form. This delegation will give the Executive Director the flexibility to modify the adopted policy as needed due to revisions to the Public Records Act or other applicable law, or other circumstances affecting the disclosure of public records.

Approved by:

Mike McKeever
Executive Director

Attachments

Key staff: Karen Wilcox, Director of Finance, (916) 340-6210
Rochelle Tilton, Clerk to the Board, (916) 340-6208



SACRAMENTO AREA COUNCIL OF GOVERNMENTS

RESOLUTION NO. 59 – 2008

**ESTABLISHING A PUBLIC RECORDS DISCLOSURE POLICY FOR THE
SACRAMENTO AREA COUNCIL OF GOVERNMENTS**

WHEREAS, state law authorizes local agencies to establish policies governing the disclosure of public records; and

WHEREAS, the proposed Public Records Disclosure Policy complies with applicable laws and regulations, including the California Public Records Act; and

NOW, THEREFORE, BE IT RESOLVED that the Sacramento Area Council of Governments Board of Directors hereby adopts the Public Records Disclosure Policy attached as Attachment “B,” and delegates authority to the Executive Director to revise the Policy as needed, with the assistance of General Counsel.

PASSED AND ADOPTED this 21st day of August 2008, by the following vote of the Board of Directors:

AYES:

NOES:

ABSTAIN:

ABSENT:

Tom Cosgrove
Chair

Mike McKeever
Executive Director

SACRAMENTO AREA COUNCIL OF GOVERNMENTS (SACOG)

Procedure for Disclosure of Public Records

Section 1. Intent.

It is the intent of the Sacramento Area Council of Governments (SACOG) in adopting this procedure to provide access to the public records of the Authority in accordance with the provisions of the Public Records Act (Gov. Code § 6250 *et seq.*).

Section 2. Examination of Records

(a) All public records, not exempt from disclosure under the Public Records Act, shall be available for inspection by any person during regular office hours at the principal office of SACOG. Any person requesting disclosure of a public record must complete the "Request for Disclosure of Public Record" form, attached hereto as Exhibit A. All public records requests must be forwarded to the Clerk of the Board. The Clerk of the Board shall serve as SACOG's Public Records Officer and will respond to such requests with the assistance of SACOG's General Counsel.

(b) The examination of the records shall be carried out in the manner the Clerk of the Board deems appropriate to safeguard the records and maintain the efficient conduct of business. Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt from disclosure by law.

Section 3. Refusal to Disclose

(a) When the Clerk of the Board determines that any document should not be disclosed to a person requesting it, the Clerk of the Board shall state his or her reason for refusing disclosure to the person within ten (10) days of the written request.

(b) If the person seeking disclosure of the records is dissatisfied with the decision of the Clerk of the Board, he or she may bring an action in court to compel disclosure as provided by the Public Records Act.

Section 4. Cost for Copies of Records

(a) A charge in the amount of the actual cost of copying shall be made for a copy of any public record made upon written request utilizing the form attached as Exhibit A. There shall be no charge for locating or handling documents.

(b) The Clerk of the Board shall determine the cost of the copy and advise the person requesting the documents of the cost.

(c) The requesting party shall present the form specifying the cost, together with the payment of the cost, to the Clerk of the Board who shall either:

(i) Certify the amount paid on the form, return a duplicate to the requesting party, and provide the requesting party with the documents requested; or

(ii) Advise the requesting party that the Clerk of the Board refuses to disclose the requested copy of the documents.

Section 5. Records in Electronic Format

(a) If the person seeking disclosure of a record requests that SACOG make a record available in electronic format, SACOG shall make the information available in the electronic format in which it holds the information. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) SACOG shall not reconstruct a record in an electronic format if the record is no longer available in an electronic format, nor shall SACOG release an electronic record in the electronic form in which it is held if the release of the electronic record will jeopardize or compromise the security or integrity of the original record or of any proprietary software in which the record is maintained.

Section 6. No Cost for Certain Material

Notwithstanding the provisions of Section 4 above, no charge shall be made to any person requesting copies of the following documents:

- Information bulletins
- Fact Sheets
- Board agendas, minutes or resolutions
- Committee agendas or minutes
- Letters in support of, or in opposition to, legislative bills.

SACOG may, however, from time to time, establish a reasonable annual fee based on the estimated cost of providing the service for any member of the general public requesting regular notice of all Board meetings.

EXHIBIT A
SACRAMENTO AREA COUNCIL OF GOVERNMENTS

Public Records Act Request

(To be completed by the person seeking disclosure)

Name

Street address

City, state, and zip code

Phone number

Email address

Documents Requested

Signature

Note: THE ACTUAL COST OF COPYING WILL BE CHARGED FOR A COPY OF ANY DOCUMENT PROVIDED.

Return Request to:

SACRAMENTO AREA COUNCIL OF GOVERNMENTS
1415 L Street, Suite 300
Sacramento, CA 95814

DENIAL OF DOCUMENTS REQUESTED

(To be completed by the Clerk of the Board or his/her Designee)

Indicate the appropriate reasons that the disclosure of public documents was denied:

1. Material sought is in the form of a draft, a note, or is an interagency or intra-agency memo not normally kept by this department, and the public interest served by not disclosing this record clearly outweighs the public interest service by the disclosure of the record.
2. Material sought is withheld due to a claim made against SACOG or because of pending litigation.
3. Material sought is part of a personnel, medical, or other similar file, and its disclosure would constitute an unwarranted invasion of personal privacy.
4. Material sought is the record of a complaint or investigation conducted, or is intelligence or security information, which was produced or obtained for correctional, law enforcement, or licensing purposes.
5. Material sought is geological or geophysical data, or similar information relating to utility systems development obtained in confidence.
6. Material sought is test questions, scoring key, or other examination data used to administer an examination for employment.
7. Material sought is a real estate appraisal, engineering, or feasibility estimate or evaluation relative to acquisition of property, or to a prospective public supply or construction contract, and such acquisition of property has not taken place or such contract has not been executed.
8. Material sought was obtained from a taxpayer, in confidence, in connection with the collection of taxes or assessments, and which, if disclosed, would result in an unfair, competitive disadvantage to the taxpayer.
9. Material sought is protected from disclosure by federal or state law.

_____ 10. Material sought includes statements of personal worth, personal financial data, or other personal or family data required by SACOG and filed by an applicant with SACOG to establish his personal qualification for assistance or to enable assistance to be rendered by or through SACOG.

_____ 11. Other: _____

Signature

Title

Approved by Legal Counsel:

Miller, Owen & Trost