

LPWWA Public Records Request Procedure

I Purpose

The purpose of this Procedure is to establish a protocol under which La Plata West Water Authority (LPWWA) public documents will be made available upon request.

II Procedure Statement

In accordance with our statutory responsibility, LPWWA is committed to ensuring public access to LPWWA public records within a reasonable time and at a reasonable cost.

III Definitions

A. The “custodian” means and includes the official custodian or any authorized person having personal custody and control of the public records in question.

B. “Public records” are those defined in C.R.S. § 24-72-202. Generally speaking, the following kinds of records are public:

1. Records of any official actions taken by elected/appointed officials during public meetings including minutes, tapes, exhibits, resolutions, agreements, contracts, reports, etc.

2. All documents related to the expenditure of public funds.

3. Applications for employment and employment agreements.

4. Minutes of meetings of any LPWWA Board of Directors meetings.

5. Incoming and outgoing correspondence of staff in which LPWWA business is discussed.

6. Correspondence of elected/appointed officials, except to the extent that such correspondence is a work product; without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds; a communication from a constituent to an elected/appointed official that clearly implies by its nature or content that the constituent expects that it is confidential or a communication from the elected/appointed official in response to such a communication from a constituent; subject to nondisclosure as required by C.R.S. § 24-72-204(1).

7. Voter and election information, recorded deeds, maps, property assessment information and documentation, taxation documentation and information.

8. Certain electronic mail. (Note: some electronic mail may be considered confidential work product or attorney-client privileged information.)

C. “Writings” includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. Writings include digitally stored data, including without limitation on volume email messages, but does not include computer software.

D. “Work product” means and includes all intra- or inter-agency advisory or deliberative materials assembled for the benefit of elected/appointed officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected/appointed officials in reaching a decision within the scope of their authority. Such materials include: notes and memoranda that are related to or serve as background information for such decisions; preliminary drafts and discussion copies of documents that express a decision by an elected/appointed official. Correspondence, reports, and any other communication between staff, other agencies, consultants, and/or others preparatory to any report or recommendation to an elected/appointed official is considered to be a work product. Work product does not include: Any final version of a document that expresses a final decision by an elected/appointed official; any final version of a fiscal or performance aptitude report or similar document the purpose of which is to investigate, track, or account for the operation or management of a public entity or the expenditure of public money, together with the final version of any supporting material attached to such final report or document; any final accounting or final financial record or report; any materials that would otherwise constitute work product if such materials are produced and distributed in a public meeting or cited and identified in the text of the final version of a document that expresses a decision by an elected/appointed official.

E. The definitions found in C.R.S. § 24-72-202, as amended from time to time, are incorporated herein unless the context of this Procedure clearly requires a different meaning.

IV Applicability

This Procedure applies to all departments and offices of LPWWA.

V Compliance

All staff and elected/appointed officials are responsible to ensure compliance with this Procedure.

VI General Provisions

A. Right to Inspect Public Records

All books, papers, maps, photographs, cards, tapes, recordings, correspondence, digitally stored data, and other documentary materials, regardless of physical form or characteristics, held by any local government for use in the exercise of its functions or involving the receipt or expenditure of public funds are public record pursuant to C.R.S. § 24-72-202, with the exceptions noted in Article 72, Part 2 of the Colorado Revised Statutes, and subject to public inspection under C.R.S. § 24-72-203. In addition to the right of inspection, any person also has the right to obtain copies of these records.

It is the responsibility staff and elected/appointed officials to know which records are considered public records, but any public record request shall be given to the LPWWA President and/or attorney for approval. C.R.S. § 24-72-202 specifies what communications and writings are public record.

The following records are not public records:

1. Work products prepared for elected/appointed officials;
2. Personnel files (except applications, employment agreements, and performance ratings);
3. Medical, psychological, sociological, and certain scholastic achievement data;
4. Real estate appraisals; and,
5. Legal reports and advice on matters of litigation.

This list is not exhaustive; therefore, if there is any question about whether or not certain records are public information, the custodian shall consult with the LPWWA President and attorney.

B. Electronic Mail

Each individual employee is the custodian of his or her incoming and outgoing electronic mail (e-mail). In order to facilitate research and retrieval of email records that may be requested by the public, employees should take care to use a descriptive subject line that accurately and thoroughly reflects the topic of the e-mail correspondence.

C. Requests for Information and Inspection

1. Procedure for Requesting Public Records

With the exception of documents that are provided in the normal course of business, any request for public information that requires research and/or retrieval shall be made in writing and on the official Public Records Request Form. LPWWA has developed the official Public Records Request Form for the convenience of those requesting information and to ensure efficient and

timely processing of public records requests. The form is available on the LPWWA website (www.lpwwa.org), or may be obtained by calling 970-403-5790.

All records requests may be mailed to P.O. Box 631 Durango, CO 81302, or may be submitted by email to lpwwaboard@gmail.com. The individual who receives the records request shall immediately transmit the request electronically to the LPWWA President and/or attorney for review and approval. A log of all records requests received and respective responses shall be maintained.

2. When Time Period for Response Begins

The time period begins when LPWWA receives the completed official Public Records Request Form. If the form is sent by:

- a. Email, it is deemed received when it is viewed by the recipient.
- b. U.S. mail, it is deemed received when the letter is opened and date stamped.
- c. Fax, it is deemed received when it is received and date stamped during regular business hours.
- d. Notwithstanding the foregoing, requests received outside of normal business hours, on holidays, and over weekends will be deemed received no earlier than 8:00 a.m. on the next succeeding business day.

3. Time for inspection of records

LPWWA will strive to comply with all public records requests within three (3) working days of receipt. If the requested records are in active use or are in storage, and are therefore not immediately available, this information shall be communicated to the person making the public records request either by phone, or in writing, if requested, before the expiration of the three-day period.

The period of time for providing requested documents may be extended for an additional (7) seven days if the LPWWA President and/or attorney determines that one of the following conditions (“extenuating circumstances”) exists, and states such condition in writing to the requestor, within the first three (3) working days of receipt of the request (C.R.S. § 24-72-203(3)(b)):

- a. A broadly-stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the appropriate custodian of records reasonable time to prepare or gather the records within the three-day period (C.R.S. § 24-72-203(3)(b)(I)).

b. A broadly-stated request is made that encompasses all or substantially all of a large category of records, and the agency is unable to prepare or gather the records within the three-day period because:

i. The custodian needs to devote all or substantially all of its resources to meet an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or

ii. A request involves such a large volume of records, or such obscure records, that the custodian cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the custodian’s obligation to perform his or her other public service responsibilities (C.R.S. § 24-72-03(b)(II)).

c. If the request is too broad, speculative, or voluminous to prepare in ten (10) working days (three (3) days plus the seven-day extension), LPWWA may request relief from the Court, including attorney’s fees, as provided by law.

D. Fees

1. A substantial number of LPWWA public records are available free of charge on the LPWWA website (www.lpwwa.org). These include, but are not limited to, LPWWA budget, agendas and minutes of meetings of LPWWA Board of Directors, press releases, and other information.

2. LPWWA may charge for time spent responding to large requests for inspection of records, including without limitation, requests that require the searching of voluminous files for specific information, manipulating data or redacting documents to excise confidential information. The hourly rate for such work is specified in paragraph 4 below. For large requests, a deposit of the estimated cost of the work shall be collected before the work begins. If actual charges are less than the deposit, the balance will be refunded.

3. Copies

a. For records of elected/appointed officials, the fee shall be as established in the Colorado Revised Statutes.

b. For all other LPWWA departments or offices, the fee for a paper copy of any public record is 15 cents per page for copies up to 11” x 17” in size. If the document is greater than 11” x 17”, then the fee shall be the actual cost of reproduction.

c. The fee for an electronic copy of any public record(s) shall be as follows:

If the record exists in electronic format	\$1 per CD or DVD + data compilation time
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If the record has to be scanned	\$1 per CD or DVD + data compilation time
If the record has to be printed and scanned	\$1 per CD or DVD + data compilation time + paper copy fee
For copies of videos	\$1 per DVD + data compilation time

LPWWA will not accept a CD, thumb drive, or other storage media from the person requesting the records (the “requestor”) to avoid viruses and/or system contamination.

4. Data Compilation and/or Data Manipulation

a. If the request will take more than an hour to fulfill, the fee for compiling the requested information, shall be as follows:

Departments and Divisions	Less than an hour – no charge More than an hour - \$32 per hour
Elected Officials	Less than an hour – no charge More than an hour - \$32 per hour Or, as otherwise established in the Colorado Revised Statutes.

b. The fee for data compilation includes the cost of redacting documents to excise privileged material.

c. LPWWA may refuse any request requiring data manipulation on the basis that the Colorado Open Records Act does not require manipulation.

d. All requests shall be reviewed by the LPWWA attorney and those costs shall be paid by the person requesting the records. LPWWA shall provide an estimate of said legal fees prior to incurring legal costs.

E. Inspection of Records

Inspection of records will take place by appointment during regular business hours (Monday through Friday from 8:00 a.m. to 5:00 p.m.). The requestor may not bring or use photocopiers, fax machines, and other copy, scanning, or reproductive devices when inspecting records. Upon completion of the review, the requestor must mark with tabs the pages he or she wishes to have copied. Copies will be made at a later time, depending on the volume. The requestor will be

notified by the method identified on the Public Records Request form when the copies are available for inspection and/or pickup.

F. Denial of Inspection of Records

In accordance with the Colorado Open Records Act, certain records are either prohibited from disclosure or may be withheld from public inspection. Any denial of inspection of records will be specific and the justification for such denial, as authorized under the Colorado Open Records Act, will be provided in writing to the requestor.

G. Retention and Archiving

The custodian of records is responsible to retain, archive, and/or purge records in accordance with the retention schedule established by the State Archivist for such records. Therefore, staff and elected/appointed officials are responsible to retain, archive, and/or purge, as appropriate, any incoming or outgoing email, along with their other official LPWWA records, in accordance with the respective retention schedule from the Colorado State Archivist. Under certain circumstances, LPWWA must temporarily suspend the Retention and Archiving Section of the Public Records Procedure and implement a legal hold on this procedure. The LPWWA President and/or attorney will provide notification when the legal hold is in effect, which will supersede this section for all public records subject to the legal hold.

Questions concerning this procedure should be directed to the LPWWA President or attorney. In the event any provision or requirement of this policy conflicts with the Colorado Open Records Act, the provisions of the Colorado Open Records Act shall prevail.