

## **NEW MEXICO PUBLIC REGULATION COMMISSION**

### **NOTICE OF RIGHT TO INSPECT PUBLIC RECORDS**

By law, under the Inspection of Public Records Act (the "Act" or "IPRA"), every person has the right to inspect public records of the New Mexico Public Regulation Commission ("PRC" or "Commission"). The PRC is responsible for making public records, in its possession or that it is responsible for, available for inspection.

"Public records" are defined as: "all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained." NMSA 1978, § 14-2-6(G) (1993).

Commission public records do not include records that do not relate to a public body's business and any records, or portion of a record that is exempt from IPRA.

#### **Procedure for Requesting Inspection.**

Any person desiring to inspect public records in the possession of the PRC must submit a request to the records custodian. The request may be made orally or in writing. However, the procedures and penalties prescribed by the Act apply only to written requests. NMSA 1978, § 14-2-8(A) (1993).

A written request must contain the name, address and telephone number of the person making the request. The request must describe the records sought with reasonable particularity to enable the records custodian to identify and locate the requested records. NMSA 1978, § 14-2-8(C). The Inspection of Public Records Act does not require the agency to create a public record. NMSA 1978, § 14-2-8(B).

Requests may be submitted in person or sent via U.S. mail, e-mail or facsimile to the PRC records custodian, at:

Custodian of Records  
New Mexico Public Regulation Commission  
1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, New Mexico 87504  
(505) 827-6968 phone  
(505) 476-0324 fax  
[prc.ipra@state.nm.us](mailto:prc.ipra@state.nm.us)

The Commission encourages the submission of requests on the Inspection of Public Records Form available on its website. Although the use of the form is not mandatory, use of the form is encouraged for record keeping purposes.

The records custodian will notify the requestor if the Commission does not possess or have responsibility for the records requested. If the records custodian believes that the requested documents may be located in another state agency or entity, the records custodian will forward the request to the state agency' s or entity' s records custodian, if known, and notify the requestor of the name and address of that records custodian.

### **Response to Requests for Inspection:**

The records custodian is required to permit inspection immediately or as soon as practicable under the circumstances, in accordance with the law. If the records sought are not available for public inspection within three (3) business days, the records custodian shall explain in writing when the records will be available for inspection or when the public body will respond to the records request. Unless a request is determined to be excessively broad or burdensome, the records custodian shall permit inspection of the requested non-exempt public records within fifteen (15) days after receiving the written request. NMSA 1978, § 14-2-8(D).

If the records custodian determines that a written request is excessively burdensome or broad, an additional reasonable period of time is allowed to comply with the request. The custodian will provide written notification to the requestor within fifteen days of receipt of the written request that additional time will be needed to respond to the written request. The requestor may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the custodian does not permit the records to be inspected in a reasonable period of time. NMSA 1978, § 14-2-10 (1993).

Excessively broad and burdensome requests may include requests to inspect public records that seek either an unusually voluminous amount of documents, seek documents from a large timeframe, or otherwise concern records that require additional time to locate and review. These may include documents concerning ongoing litigation; requests for non-final contracts; requests for records containing exempt information requiring redaction; and requests for data contained within an electronic information system or database. Requests may also require additional time to fulfill where the requested public records must be retrieved from remote facilities, including archived records, or where other unusual circumstances beyond the control of the records custodian could cause delay and require additional time to respond as provided by the Act.

If a written request is denied, the records custodian shall provide the requestor with a written explanation of the denial. The written denial shall be delivered or mailed to the person requesting the records within fifteen (15) days after the request for inspection was received, unless the requestor was notified additional time was needed. NMSA 1978, § 14-2-11(B).

### **Procedures for Requesting Paper Copies and Fees**

If a person requests a paper photocopy of a public record, a reasonable fee shall be charged, including the applicable fee for certification of copies as provided by statute. NMSA 1978, § 62-13-2; § 65-2A-36, § 14-2-9, § 14-3-15.1(A). Copies of public records existing only in paper format shall be available at a reasonable fee and provided in the same paper format only. Conversion of paper records to electronic format is not available. Except as otherwise provided

in this policy with respect to electronic records, the Commission adopts and shall apply the fees established by the State Records Commission set forth at 1.13.2.11 NMAC, for paper photocopies of public records.

### **Procedures and Charges for Electronic Records.**

Public records existing in electronic format will be provided for inspection, review, copying, downloading or printing in either the original electronic format; Portable Document Format (PDF) or such other format as the PRC records custodian may deem necessary to preserve the integrity of computer data or confidentiality of exempt information in accordance with NMSA 1978, § 14-2-9(A).

Subject to the provisions above, IPRA requires an agency to provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is specifically requested, however, the records custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.

PDF copies of pleadings and documents filed in adjudicative proceedings may be viewed and downloaded directly at no cost using the Commission's e-docket system which is accessible at the PRC website: <http://nmprc.state.nm.us/>

Electronic records may be downloaded to a computer disk or storage device by the records custodian upon request. CDs are available from the Commission at actual cost. The cost of CDs shall be updated periodically and made available on the PRC website. The use of third party external drives is prohibited.

### **Mailing and Transmittal of Records:**

Copies of public records may also be transmitted to the requestor by regular mail, electronic mail or by facsimile.

Charges for PRC personnel time to download and transmit or mail electronic and paper records shall be calculated at the actual cost to the agency of the personnel time spent performing the tasks of downloading, transmitting, e-mailing or mailing the records, as well as the actual cost of any materials, including any computer disk, storage device, packaging and postage. The applicable hourly rate for personnel time shall be periodically updated and made available on the PRC website.

### **Payment**

Charges may be remitted by either money order or check made out to "New Mexico Public Regulation Commission" or "State of New Mexico."

The records custodian may request that applicable fees for copying public records be paid in advance. A receipt indicating that the charges have been paid will be provided upon request to the requestor.

### **Requests for Records from Electronic Information System Databases**

Requests for information contained in information systems databases may be subject to disclosure pursuant to NMSA 1978, § 14-3-15.1(C) and NMSA 1978, § 14-2-9(D). A list of NMPRC databases are posted on the NMPRC webpage.