

State Agency Public Records Questionnaire

Submitted by the Idaho Bureau of Homeland Security to the Public Records Ombudsman, Office
of the Governor

September 29, 2014

1. Please describe your current public records request process and policy for maintaining records that may be requested.

See attached Internal Protocol and External Policy for Public Records Requests

- a. What are the issues, if any, you see with your current office process and policy?

None

- b. How could it be improved?

The IBHS process has proven effective in its current form. Any improvements to the process can be incorporated as needed.

2. How many public records requests did your agency receive in the calendar year 2013?
Idaho BHS began tracking statistics for Public Record Requests July 2014. In 2013 we had several notable requests:

- **We received several requests after the West, TX fertilizer plant explosion for Tier II data. These were denied based upon legal review of the Emergency Planning and Community Right to Know Act (EPCRA). *Through Tier II, facilities with reportable quantities of certain chemicals are required to report those hazardous materials to the Idaho Bureau of Homeland Security, as the designated State Emergency Response Commission.***
- **The Idaho Statesman requested contractual info regarding the Mystate USA (now AlertSense) contract and its genesis. This was approved.**
- **A former county employee requested information regarding grant received by his former employer. This was approved.**
- **Multiple standard requests for environmental assessment data for specific locations. These are approved.**

- a. How many through May 2014?

- Each month IBHS receives one-to-two requests for environmental assessment data for specific Tier II locations. These are approved.
- Following a USDOT directive regarding Bakken Crude Oil shipment reporting requirements IBHS received multiple requests for information on Bakken Crude Oil rail shipment amounts and times on trains traveling through the Idaho Panhandle. Based on a review of federal statute by the Deputy Attorney General assigned to IBHS the request was deemed confidential and was declined.

3. Of those requests, how many were granted in full?

A majority of the public records requests are granted in full

a. How many were denied in part?

In 2014 the only public records requests denied involved confidential information regarding crude oil shipment amounts in the Idaho Panhandle.

b. In full?

A majority of public records requests thus far in 2014 have been granted in full unless the information is confidential (Bakken shipments) or in the case of Tier II information, not site-specific.

4. Do you have frequent requesters?

Environmental consulting companies and engineering firms request Tier II data on a regular basis. These requests are approved when referencing specific locations.

5. For each request, please provide the following information:

a. Type of record requested

A record of hazardous (Tier II) material at a particular site

i. How many of each type of record was requested in total for the year?

2014 approximately 10

b. Granted/Denied in Part/Denied in Full

i. How many of each?

As noted above, tracking of statistics for public records requests began in July of 2014.

c. Reason for denial whether in whole or in part

Requests are denied if the information is confidential or in the case of Tier II information if the request is not site-specific.

d. Time elapsed for response

3- business days from receipt

e. If the time elapsed was more than the statutory 3-day standard, why? Please explain.

In instances where collecting large amounts of data requested will take more than the 3-day standard, the requester is notified.

f. If the time elapsed was more than the statutory extended 10-day standard, why? Please explain

N/A

g. What fees did you charge? Please itemize the charges-labor, copying fees, etc.

N/A

h. Did you provide the first 100 pages and first two hours of labor free, as required by statute? Why or why not?

Yes

i. Type of requester: individual, law firm, NPO, etc.

All of the above

j. Volume of request

Varies

k. Were records provided to the requester with redactions?

No

- i. If so, please describe the extent of redactions and the labor cost charged for the redaction.

N/A

- l. In what medium were records provided?

Electronic (PDF, Word, etc.)

- m. Did the requester dispute the decision?

One requestor disputed the decision not to release Tier II records deemed protected by our Deputy Attorney General.

- i. If so, what was the outcome?

The requestor was advised of available course of action to formally dispute the decision, but declined to do so.

- ii. Did the request go to court?

No

- 1. If so, what was the outcome

N/A

- iii. What type of staffer responded to the records request?

- 1. Please list all

Public Information Officer

- n. Anything unusual about this request?

No



**STATE OF IDAHO
BUREAU OF HOMELAND SECURITY**

4040 W. GUARD STREET, BLDG. 600
BOISE, IDAHO 83705-5004



C.L. "BUTCH" OTTER
GOVERNOR

Maj Gen GARY L. SAYLER
ADJUTANT GENERAL

Col BRAD RICHY
DIRECTOR

July 1, 2013

MEMORANDUM FOR All Members of the Bureau of Homeland Security, the General Public and other Organizations and Customers

SUBJECT: Public Records Request Policy and Procedures (BHS-11)

1. The Idaho Bureau of Homeland Security (BHS) has adopted this public records policy and procedure to provide access to public records while adhering to Idaho laws and statutes and recognizing staff, supply, and equipment limitations. It is BHS's policy to make every effort to fully comply with the Idaho Public Records Law by responding to records requests in a timely, accurate and courteous manner.
2. Acceptance of Requests
 - a. *Written Request Required.* Requests for copies of public records from the files of BHS or for the inspection of such records must be in writing and delivered as set forth in subsection 1(b). A person making a request must provide their name, mailing address and a current telephone number for the purposes of providing a response and clarifying the request, if necessary.
 - b. *Designated Staff Member.* Requests must be made to the Public Information Officer (PIO) and hand delivered, sent by U.S. Mail or a delivery service such as Federal Express, or sent by e-mail to the Public Information Officer. Mail and delivery services must be addressed to the BHS's business address. E-mail must be sent to the Public Information Officer's current email as specified on the BHS website. If the Public Information Officer is away from the office for an extended length of time and unable to respond in a timely fashion, the BHS Director will designate another staff member to respond to requests for copies or inspection of records.
 - c. *Mailing Address.* The mailing address of BHS is 4040 Guard Street Building 600, Boise, ID 83705. The BHS PIO email address can be found at <http://www.bhs.idaho.gov/Pages/NewsRoom.aspx>. The phone number for BHS is 208-422-3033.

- d. *Date of Receipt.* The request will be identified as received on the date actually received by the Public Information Officer or the staff member designated to receive requests during an extended absence of the Public Information Officer. Requests submitted by a method or to a person outside of the process set forth in subsections 1(a) and (b) may cause a delay in BHS' response.

3. Processing Requests

- a. *Initial Response.* BHS will respond to requests in writing within three (3) business days of the date of receipt. Responses will be sent through the U.S. Mail. If it is determined by BHS that a longer period of time is needed to locate or retrieve the public records, BHS will notify in writing the person requesting to examine or copy the records and shall provide the public records within ten (10) working days. If BHS determines that the records will have to be converted from one electronic format to another and that such conversion cannot be completed within ten (10) working days, BHS will notify in writing the person requesting the records. BHS shall provide the converted public record at a time mutually agreed upon between BHS and the requestor.
- b. *Charges for Retrieval and Reproduction of Records.* BHS has enacted the charges for retrieval and reproduction of records set forth on Appendix A. If BHS has a reasonable belief that a party or group requesting records is attempting to break down a large request for copies of records into a series of smaller requests for the purpose of avoiding the imposition charges, BHS will aggregate such requests for the purpose of determining charges and impose such charges on the aggregated request. Where it appears to BHS that its response to a request will result in the imposition of fees and charges in the excess of five dollars (\$5.00), BHS may require the requesting party to pay such fees and charges in advance of the retrieval and production of records. BHS will consider requests for a waiver of charges on a case-by-case basis.
- c. *Removal of Non-public Information.* BHS will remove non-public information from records made available to requesting parties. Where non-public information is removed, BHS will have the removal reviewed by legal counsel and notify the requesting parties of the removal. The notice of denial or partial denial shall indicate the statutory authority for the denial and indicate the person's right to appeal the denial or partial denial and the time periods for doing so.
- d. *Examination of Records.* Requesting parties may examine records at BHS offices. BHS is authorized to prevent alteration of any public record while it is being examined by having an employee present for the examination. An employee may not be available at all times that BHS offices are open due to staff limitations. The Public Information Officer may provide persons requesting the examination of records with a reasonable range of time periods in which the records are available for examination.

SUBJECT: Public Records Request Policy and Procedures (BHS-11)

4. This policy will not be incorporated into any other type publication and will remain in effect until rescinded by proper authority.

A handwritten signature in black ink, appearing to read 'BRICHY', with a long horizontal flourish extending to the right.

Brad Richy, Colonel
Director, Idaho Bureau of Homeland Security

**Appendix A
Records Request Charges**

Type of Work Involved	Charges
Retrieval of records where no redacting of non-public information is required	No charge
Photocopying of less than 100 pages on standard 8 ½ x 11 paper where no redacting of non-public information is required	No charge
Photocopying on paper other than standard 8 ½ x 11 paper (i.e. blueprints or maps)	Actual cost
Photocopying of more than 100 pages on standard 8 ½ x 11 paper where no redacting of non-public information is required <u>or</u> Retrieval and reproduction of records where labor associated with locating and reproducing records exceeds two (2) person hours	Actual rate of pay and benefits for the employee engaged in copying and retrieval of records and twenty (20) cents per page. Alternatively, actual costs if copies made by an outside copy service
Request for records from which non-public information must be redacted	Actual rate of pay and benefits for the employee engaged in redacting. Where reproduction of such records is requested, the following additional charges: a photocopying charge of twenty (20) cents per page; a printing charge of 5 (5) cents per page for computer printed pages; actual cost of storage media (i.e. CD) for electronically stored records; and, actual cost of reproduction of records on paper other than 8 ½ x 11 paper. BHS may also require payment of direct-billed legal services related to redacting non-public information.
Where BHS has a standard charge for selling the requested records in the form of a publication	The standard cost for selling the information in the form of a publication
Reproduction of computer generated records of more than 100 pages on standard 8 ½ x 11 paper	Five (5) cents per page for computer printed records
Delivery of records	Actual shipping and postage costs
Reproduction of computer generated records on storage media	Actual cost for the storage media (i.e. CD) for electronically stored records.
Where the records are requested in a format that does not yet exist and requires computer programming to create	Actual costs of the computer programming and five (5) cents per page for computer printed records



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Brig Gen BRAD RICHY
DIRECTOR

August 28, 2014

MEMORANDUM FOR All Members of the Idaho Bureau of Homeland Security

SUBJECT: IBHS Internal Protocol for processing Public Records Requests (IBHS-14)

1. The Idaho Bureau of Homeland Security requires prompt and accurate responses to Public Records Requests as provided by *Idaho Code 9-337 through 9-350*. IBHS requires that all information sent to individuals or organizations requesting information from the agency be accurate and have received internal review. Additionally, the information submitted to the requestor shall be deemed a public record in accordance with Idaho law. This policy will serve as the required protocol when processing a request for public records submitted to IBHS.
 - a. When a Public Records Request (PRR) is received via email, the Public Information Officer (PIO) will respond to the requestor by acknowledging receipt of the request. At this time the information will not be provided. The requestor will be advised promptly that the request has been received. Idaho law requires the request be responded to in three working days. Based on the volume of information the initial response to the requestor can be to notify them of the receipt and of the two week time period to provide the information. The PIO may provide the requestor information to help the requestor narrow the scope of the request or to help the requestor make the request more specific when the response to the request is likely to be voluminous or require payment. When PRRs are received via phone the caller will be advised to send the request via email.
 - b. Upon receiving the PRR the PIO will immediately notify supervisor via email of the request, of who is requesting and what information is being requested.
 - c. The PIO will consult with the appropriate Subject Matter Expert for the available public information being requested.
 - d. When the correct information has been gathered the PIO will submit the information to Supervisor for review and approval.

- e. The PIO will respond to the PRR request, with the approved material, copying Supervisor.
- f. When large volumes of information are being sent, the information will be printed out for review prior to emailing the requestor.
- g. The PIO shall keep a record of all PRR responses in the H-Drive Public Affairs folder under PRR responses by year.

2. Legal Review

- a. Certain Public Records Request will require legal review when the subject matter is complex, new or unclear. In these circumstances the PRR will be reviewed by the IBHS legal counsel for guidance. Once legal guidance is secure the final response will be discussed with and approved by Supervisor.

3. Denials and Partial Denials

- a. Certain information requested under Idaho Public Records' Law is either not available or not a public record. In the case of a denial, the requester will be notified and the reason given. Denials, as with all other PRR's require the approval of the Supervisor.



Brad Richy, Brig Gen
Director, Idaho Bureau of Homeland Security