

❖ **UPDATED JANUARY 2017** ❖
NEW PUBLIC RECORDS LAW
RESPONDING TO A PUBLIC RECORDS REQUEST:
MUNICIPAL TIMELINE

Counting begins the business day* after receipt of request

<p>10 BUSINESS DAYS <i>INITIAL RESPONSE DUE</i></p> <p><i>NOTE: Failure to respond within 10 business days forfeits right to assess fees.</i></p>	<p>Last day to:</p> <ol style="list-style-type: none"> 1. Produce records; or 2. Deny request in writing, citing with specificity application of exemptions; or 3. Provide detailed written response stating exemptions, and/or need for additional time. <p>SEE OTHER SIDE FOR REQUIRED ELEMENTS OF WRITTEN DENIAL OR RESPONSE</p>
<p>20 BUSINESS DAYS</p> <p><i>NOTE: Supervisor's decision due within 5 business days of receipt of petition.</i></p>	<p>Last day to petition State Supervisor of Records for:</p> <ol style="list-style-type: none"> 1. An extension of time to respond; or 2. To charge for "employee time" at rate more than \$25.00/hr.; or 3. To charge for time spent segregating or redacting. <p>SEE OTHER SIDE FOR PETITION CRITERIA</p>
<p>25 BUSINESS DAYS</p>	<p>Last day to produce records absent Supervisor approved extension (unless requester agrees to more time).</p>
<p>Up To 30 Additional BUSINESS DAYS</p>	<p>Maximum extension the Supervisor may normally grant, unless a finding of frivolous or harassing requests is made. Extension runs from date Supervisor grants petition.</p>

**The term "business day" excludes weekends, legal holidays and unexpected closure of custodian's office.*

Initial Written Response/Denial to Requester - Required Elements (Within 10 Business Days)

1. Confirm receipt and date of request;
2. Identify requested records or categories of records not within possession or custody of RAO; identify agency, municipality, RAO or custodian with custody, if known;
3. Identify records that RAO intends to withhold and/or redact, *detailing with specificity* reasons therefor and asserting applicable exemptions;
4. Identify records produced or intended to be produced and, if necessary, a detailed statement describing why response time in excess of 10 business days is required;
5. Identify anticipated timeframe for production – cannot exceed 25 business days after receipt of request without extension – and provide detailed explanation of how request unduly burdens other responsibilities, including, magnitude or difficulty of request, size of office, office hours;
6. If more than 25 days response time is anticipated, notify requester of possible/actual petition to Supervisor for extension of time and include request for requester’s voluntary assent to additional time;
7. Suggest a modification of request if appropriate to reduce estimated response time and cost;
8. Itemized good faith estimate of fees, if charged; if community has 20,000 or fewer residents, population data to support assessment of fees; and
9. Statement informing requester of the right of administrative appeal to the Supervisor of Records under 950 CMR 32.08(1), and the right to seek judicial review of any unfavorable decision by commencing a civil action in the superior court pursuant to G.L. c.66, §10A(c).

Criteria for Petitions to State Supervisor of Records

Petitions for Extension of Time for “Good Cause” should address:

1. Scope and extent of search for and segregation of records;
2. Scope of redaction necessary to prevent unlawful disclosure;
3. Capacity and normal business hours of RAO or department;
4. Efforts to fulfill current and previous requests;
5. Whether request, individually or as part of series, from the same requester, is frivolous or intended to harass or intimidate municipality; and
6. Whether public interest is served by expeditious disclosure.

Petitions related to Fees should assert, in good faith:

1. Request is for a commercial purpose; **or**
2. The request could not prudently be completed without redaction, segregation or fee in excess of \$25 per hour; the fee is reasonable and not designed to limit, deter or prevent access to requested public records; balancing the public interest in disclosure and the requester’s ability to pay.

**The term “business day” excludes weekends, legal holidays and unexpected closure of custodian’s office.*