

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

TITLE:	PUBLIC RECORDS POLICY
PURPOSE:	The Delaware River Joint Toll Bridge Commission (the “Commission”) recently has undertaken a number of actions to promote greater transparency in its dealings and communications with the public, recognizing that an informed citizenry enriches the function of government. The Commission’s Public Records Policy (“Records Policy”) is designed to provide open, timely and uninhibited access to the Commission’s public records. The Commission seeks to achieve these goals by adopting this Records Policy that is based upon best practices and is consistent with the Pennsylvania Right-To-Know Law, 65 P.S. §§ 67.101 <u>et seq.</u> , and the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 <u>et seq.</u> This Records Policy has a particular emphasis on procedures for requesting records and exemptions from disclosure.
POLICY:	It is the policy of the Commission that the Commission’s public records be available to citizens of the United States, especially citizens of the Commonwealth of Pennsylvania and State of New Jersey, so that such citizens have the opportunity to observe and monitor the business of the Commission.
DISCLAIMER:	This Records Policy is a unique public records policy applicable to the Commission, an independent bi-state agency, that is based upon the requirements regarding public records access set forth by the Pennsylvania legislature in the Right-To-Know Law, 65 P.S. § 67.101 <u>et seq.</u> , and the New Jersey legislature in the Open Public Records Act, N.J.S.A. § 47:1A-1 <u>et seq.</u>
APPLICABILITY:	This Records Policy applies to all requests for access to public records of the Commission, and applies to all recorded information, regardless of whether the information exists in written or electronic format.
PUBLIC RECORDS / EXEMPTIONS:	Public records of the Commission will be presumed to be public records available for public access. The following records and documents, and those records and documents specifically delineated as exempt from disclosure in applicable statutes, laws and regulations, are exempt from access by a requester: <ol style="list-style-type: none"> 1. A record the disclosure of which: (i) would result in the loss of Federal or state funds by the Commission; or (ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to the personal security of an individual. 2. A record maintained by the Commission in connection with homeland security, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity. 3. A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system,

	<p>which may include:</p> <ul style="list-style-type: none"> a) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act; b) lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; anti-terrorism protective measures and plans; counter-terrorism measures and plans; and security and response needs assessments; and c) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems. <p>4. A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.</p> <p>5. A record containing all or part of a person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal email addresses; employee number or other confidential personal information, including, but not limited to, confidential personal information relating to E-ZPass transactions.</p> <p>6. The following records relating to an employee of the Commission:</p> <ul style="list-style-type: none"> a) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual. b) A performance rating or review. c) The employment application of an individual who is not hired by the Commission. d) Workplace support services program information. e) Written criticisms of an employee. f) Grievance material, including, but not limited to, documents related to discrimination or sexual harassment.
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g) Information regarding discipline, demotion or discharge contained in a personnel file.

h) An academic transcript.

7. The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for the Commission.

8. A record that reflects the internal, pre-decisional deliberations of the Commission, its Commissioners, employees, officials or agents and Commissioners, employees, officials or agents of another agency, including, but not limited to, pre-decisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy, contract or course of action or any research, memoranda or other documents used in the pre-decisional deliberations. In addition, any record that reflects strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

9. A record that constitutes or reveals a Trade Secret or Confidential Proprietary Information.

For purposes of this Records Policy, a Trade Secret shall be defined as information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that: (i) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Without limiting the foregoing, the term Trade Secret includes data processing software obtained by the Commission under a license agreement prohibiting disclosure.

For purposes of this Records Policy, Confidential Proprietary Information shall be defined as commercial or financial information received by the Commission: (i) which is privileged or confidential; and (ii) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

10. Notes and working papers prepared by or for a public official or an employee of the Commission used solely for that official's or employee's own personal use, including, but not limited to, telephone message slips, routing slips and other materials that do not have an official purpose.

11. A record of the Commission relating to or resulting in a criminal

	<p>investigation, including, but not limited to:</p> <ul style="list-style-type: none"> a) Complaints of potential criminal conduct other than a private criminal complaint. b) Investigative materials, notes, correspondence, videos and reports. c) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised. d) A record that includes information made confidential by law or court order. e) Victim information, including any information that would jeopardize the safety of the victim. f) A record that, if disclosed, would do any of the following: (i) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges; (ii) Deprive a person of the right to a fair trial or an impartial adjudication; (iii) Impair the ability to locate a defendant or co-defendant; (iv) Hinder the Commission's ability to secure an arrest, prosecution or conviction; (v) Endanger the life or physical safety of an individual. <p>12. A record of the Commission relating to a non-criminal investigation, including, but not limited to:</p> <ul style="list-style-type: none"> a) Complaints submitted to the Commission. b) Investigative materials, notes, correspondence and reports. c) A record that includes the identity of a confidential source, including, but not limited to, individuals subject to any whistleblower statutes, laws, regulations or policies. d) A record that includes information made confidential by law. e) Work papers underlying an audit. f) A record that, if disclosed, would do any of the following: (i) Reveal the institution, progress or result of the Commission's investigation, except the imposition of fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by the Commission or an executed settlement agreement; (ii) Deprive a person of the right to an impartial adjudication; (iii) Constitute an unwarranted invasion of privacy; (iv) Hinder the Commission's ability to secure an administrative or civil
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sanction; or (v) Endanger the life or physical safety of an individual.

13. Records or parts of records pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including, but not limited to, 911 recordings. This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the Commission or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.
14. Draft minutes of any public meeting of the Commission until the final public meeting minutes are published at the next regularly scheduled meeting of the Commission or minutes of any non-public meeting or executive session and any record of discussions held in such non-public meeting or executive session.
15. The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the Commission relative to: (i) the leasing, acquiring or disposing of real property or an interest in real property; (ii) the purchase of public supplies or equipment included in the real estate transaction; and (iii) construction projects. This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.
16. A proposal pertaining to the Commission's procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all proposals or bids. In addition to the foregoing, a proposal or bid pertaining to the Commission's procurement or disposal of supplies, services or construction if such proposal or bid contains a Trade Secret or Confidential Proprietary Information.
17. Financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability.
18. The identity of members, notes and other records of the Commission's proposal evaluation committees.
19. A record or information relating to a communication between the Commission and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.
20. Any other record or document that is protected by a privilege or exempt from being disclosed under any other Federal or state statute, law or

	<p>regulation or judicial order or decree.</p> <p>In determining whether a record is exempt from access, the Commission shall consider and apply each exemption separately.</p>
<p>REQUESTS:</p>	<p>A written request to the Commission may be submitted in person, by mail, by e-mail or by facsimile. The request must:</p> <ol style="list-style-type: none"> 1. Be addressed to the Delaware River Joint Toll Bridge Commission Public Records Officer, Arnold J. Conoline ("Open Records Officer"), at: Delaware River Joint Toll Bridge Commission 1199 Woodside Road Yardley, Pennsylvania 19067 Facsimile number: (267) 394-6744 Email: aconoline@drjtbc.org 2. Identify a name and address to which the Commission should address its response; 3. Be sufficiently specific to enable the Commission to ascertain which records are being requested; and 4. Be from a person who is a legal resident of the United States. <p>Requests may be on the form available at the website of the Commission, at http://www.drjtbc.org, and attached hereto as Exhibit A.</p> <p>The regular business hours of the Commission are 8:00 a.m. to 4:00 p.m., Monday through Friday. Any request received by the Open Records Officer at the Commission after regular business hours shall be deemed to have been received by the Open Records Officer on the following business day.</p> <p>A request must identify or describe the records sought with sufficient specificity to enable the Commission to ascertain which records are being requested. The Commission will deny all requests that are insufficiently specific.</p>
<p>RESPONSES:</p>	<p>The Open Records Officer may respond by providing a requester with access to inspect a record electronically or as otherwise maintained by the Commission, either:</p> <ol style="list-style-type: none"> 1. by providing access to the records at the Commission's offices; 2. by sending a copy to the requester; or 3. by notifying the requester that the record is available through publicly accessible electronic means. <p>Each of these options is a "response", as is the Commission's written notice to the requester granting, denying or partially granting and partially denying</p>

access to a record. The Commission may send written responses to requesters by United States mail, by hand (in person or by delivery service), by facsimile or, by e-mail.

Unless a longer period of time is needed and communicated to the requester by an "interim response" (as discussed in paragraph A below), the Commission will respond to a records request within seven (7) business days. For purposes of determining the end of the seven (7) business day period, the first day of the seven (7) business day period is the next business day after the Commission receives the request.

A. Interim Responses

The Commission may send an interim response if any of the following apply:

1. The request requires redaction of a public record.
2. The request requires retrieval of a record from a remote location.
3. A response within the seven (7) business day period cannot be accomplished due to bona fide staffing limitations, which must be specified in the interim response.
4. A legal review is necessary to determine whether the record requested is subject to access under this Records Policy and other applicable statutes, laws and regulations.
5. The requester has not complied with the Commission's policies regarding access to public records.
6. The requester has not complied with a demand for prepayment of fees, which are required to fulfill the request. The time period for the Commission's response shall be tolled from the time the demand for payment is made until such time as payment is actually received.
7. The extent or nature of the request precludes a response within the required time period.

An interim response must: (i) be sent to the requester on or before the last day of the seven (7) business day period; (ii) state that the request is being reviewed and the reason for the review; (iii) give an estimate of applicable fees owed when the public record becomes available; and (iv) state a reasonable date that a response is expected to be provided. This date must not be more than thirty (30) calendar days from the end of the seven (7) business day period.

If the date of an expected response is in excess of thirty (30) calendar days following the end of the seven (7) business day period, the request will be deemed denied unless the requester has agreed in writing to the date specified in the notice.

	<p>B. Final Responses</p> <p>There are three possible final responses that the requester may receive from the Commission. The request is either granted, denied, or granted in part and denied in part. The Commission’s failure to provide a timely final response is deemed to be a denial.</p> <p>If a written request is denied in whole or in part (other than a deemed denial as noted above), the Commission will issue a final written response. The written denial will set forth the specific reasons for the denial. If the denial is a result of a determination that the record requested is exempt from disclosure, the specific reasons for the Commission’s determination shall be included.</p> <p>C. Redaction</p> <p>The Commission will not deny access to a record based upon the fact that portions of the record are not public records and, as a result, not subject to disclosure. The Commission will redact the portions that are not public records and produce the portions that are public records.</p>
<p>APPEALS:</p>	<p>If a written request for access to a public record is denied by the Commission or deemed to have been denied by the Commission, the requester may file, within fifteen (15) business days after the denial or deemed denial by the Commission, a written appeal thereto with the appropriate governmental authority, if allowed by applicable statutes, laws and regulations. If the requester fails to file a written appeal to the appropriate governmental authority within such fifteen (15) business day time period, the requester shall be deemed to have waived his or her appeal rights.</p>
<p>FEES:</p>	<p>Applicable fees to be charged by the Commission are as follows:</p> <p><u>Copies:</u> (A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5” x 11” page) \$0.25 per page</p> <p><u>Certification of a Record:</u> \$5.00 per record plus notary fees</p> <p><u>Specialized documents:</u> (For example, but not limited to, blue prints, color copies, non-standard sized documents) Actual Cost</p> <p><u>Facsimile/Microfiche/Other Media:</u> Actual Cost</p> <p><u>Conversion to Paper:</u> If a record is only maintained electronically or in other non-paper medium, duplication fees shall be limited to the lesser of the fee for</p>

duplication on paper or the fee for duplication in the original medium unless the requester specifically requests for the record to be duplicated in the more expensive medium.

Postage Fees:

Actual Cost

Other Applicable Fees:

In addition to the fees set forth above, the Commission will charge requesters reasonable fees for necessarily incurred costs. The Commission will determine and charge such fees on a case by case basis.

Prior to granting a request, the Commission may require a requester to prepay an estimate of the fees authorized under the Records Policy.

[INSERT COMMISSION LOGO]

EXHIBIT A

DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION

RECORDS REQUEST FORM

DATE REQUESTED: _____

REQUEST SUBMITTED BY: EMAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTER: _____

STREET ADDRESS OF REQUESTER: _____

CITY/STATE/COUNTY (Required): _____

TELEPHONE: _____

RECORDS REQUESTED*:

**Provide as much specific detail as possible so the Commission can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

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FOR COMMISSION USE ONLY

OPEN RECORDS OFFICER: _____

DATE RECEIVED BY THE COMMISSION: _____

COMMISSION'S SEVEN (7) DAY RESPONSE DUE: _____