

ACCESS TO PORT AUTHORITY RECORDS – ENHANCED TRANSPARENCY AND EFFICIENCY - PORT AUTHORITY PUBLIC RECORDS ACCESS POLICY

In compliance with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015, and in furtherance of the Port Authority’s commitment to enhance the openness and transparency of the agency through the provision of timely access to the public records of the Port Authority and its component units, today the Board adopts the following Port Authority Public Records Access Policy. This Policy will provide residents of the States of New York and New Jersey, and other members of the public, with an equal right of access to records of the Port Authority, in accordance with applicable law in the two States.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Bagger, Cohen, Degnan, Fascitelli, James, Laufenberg, Lipper, Lynford, Pocino, Rechler and Steiner voting in favor. Assistant General Counsel confirmed that sufficient affirmative votes were cast for the action to be taken, a quorum of the Board being present.

RESOLVED, that any “record” of the Port Authority shall be disclosed to the public, unless it is exempt from disclosure under both the New York Freedom of Information Law and the New Jersey Open Public Records Act; and it is further

RESOLVED, that any information kept, held, filed, produced or reproduced by, with or for the Port Authority, in any physical form whatsoever, including, but not limited to, any paper, written or printed book, document, report, statement, examination, memorandum, opinion, folder, file, manual, pamphlet, form, design, drawing, map, plan, photograph, letter, microfilm, computer tape or disc, rule, regulation or code, data-processed or image-processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, shall be a “record” of the Port Authority; and it is further

RESOLVED, that there shall be within the Port Authority a Freedom of Information Appeal Office (“Appeal Office”), with such powers and duties as provided herein and directed by such officer or officers as appointed by the Executive Director, or his successor in office or duties, from time to time; provided that neither the Secretary of the Port Authority nor any member of the Office of the Secretary may be so appointed; and it is further

RESOLVED, that except for the duties and responsibilities of the Appeal Office as provided herein, the Secretary of the Port Authority (or designee(s)) shall administer this Port Authority Public Records Access Policy pursuant to the following procedures, which meet or exceed the procedures applicable under the New York Freedom of Information Law and the New Jersey Open Public Records Act:

PUBLIC RECORDS ACCESS POLICY

Section 1: Designation of Records Access Officer and Custodian of Government Records

The Secretary of the Port Authority is hereby designated as the Records Access Officer, as defined in Section 1401.2 of Title 21 of New York Compiled Rules and Regulations, and the Custodian of Government Records, as defined in Section 47:1A-1.1 of Title 47 of the New Jersey Statutes.

Section 2: Access to Public Records

The Secretary shall ensure that:

(a) A subject matter list of Port Authority records is maintained, which shall be sufficiently detailed and updated annually to permit identification of the category of any record requested, and shall also maintain a list of records which shall be made immediately available in accordance with law;

(b) Certain public records are made available for public inspection and copying during regular business hours at designated location(s) and times, and provide notice of such availability on the Port Authority website and through any other appropriate means;

(c) Assistance is provided to persons seeking records to identify and reasonably describe the records sought, if necessary, and when appropriate, indicate the manner in which the records sought are filed or retrieved;

(d) Persons seeking records are contacted when a request is voluminous or when locating the records involves substantial effort, so that Port Authority staff may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested; and

(e) The Port Authority maintains record request form(s) and public notices consistent with Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015.

Section 3: Location and Hours for Requests for Inspection

Requests for in-person inspection or copying of records may be made to the Secretary of the Port Authority (or designee(s)) in writing, and may be submitted in person, during regular business hours at the Port Authority's main office, at 4 World Trade Center, 150 Greenwich Street, New York, New York 10007.

Section 4: Requests for Public Access to Records

(a) Whether made in person or as provided below, requests for records must contain sufficient information to enable the Port Authority to identify and locate the particular records sought. Such requests must not be overly broad and must be as detailed as possible and provide, at a minimum, a clear description of the record or type of record being sought.

(b) Requests for inspection or copying of records should be made to the Secretary of the Port Authority (or designee(s)) and may be made in writing and submitted:

(1) by postal or private delivery, addressed to the Secretary, The Port Authority of New York and New Jersey, at the Port Authority's main office, 4 World Trade Center, 150 Greenwich Street, New York, New York 10007, Attention: FOI Administrator;

(2) by facsimile, addressed to the Secretary, The Port Authority of New York and New Jersey, at the Port Authority's main office at 4 World Trade Center, 150 Greenwich Street, New York, New York 10007, Attention: FOI Administrator, at the telephone extension designated for this purpose, which shall be posted on the Port Authority's website; or

(3) by electronic means, such as electronic mail ("e-mail") addressed to the Secretary, The Port Authority of New York and New Jersey, Attention: FOI Administrator, at the e-mail address designated for this purpose, which shall be posted on the Port Authority's website, or through the Port Authority's website.

Section 5: Agency Response

(a) Upon locating any records responsive to the request, the Secretary (or designee(s)) shall take one of the following actions:

(1) Make a copy of any public record available upon payment or offer to pay established fees;

(2) Permit the requester to copy any public record; or

(3) Upon identifying responsive Port Authority records that fit in at least one exclusion and/or exemption category in the New York Freedom of Information Law and at least one exclusion and/or exemption category in the New Jersey Open Public Records Act, deny access to such records, in whole or in part, and explain in writing the reasons therefor.

(b) Except those records that shall be made immediately available, a response to a request for records shall be given within five business days of receipt of a request by:

(1) Granting or denying access to records, in whole or in part, pursuant to this Policy; or

(2) Informing the requester that the request or portion of the request does not reasonably describe or identify the records sought and including direction, to the extent possible, that would enable that person to reasonably describe requested records;

(3) Acknowledging the receipt of a request in writing, including when the request will be granted or denied, in whole or in part, which date shall be reasonable under the circumstances of the request. If the Secretary determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.

(c) In determining a reasonable time for granting or denying a request under the circumstances of a request pursuant to subsection (b)(3) above, the Secretary (or designee(s)) shall consider: the volume of the request; the ease or difficulty in locating or retrieving records; the complexity of the request; the need to review records to determine the extent to which they must be disclosed; the number of requests received by the agency; whether the request is for records to which immediate access shall be ordinarily granted by law; and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

(d) A failure to comply with the time limitations described herein shall constitute a denial of a request, except that the Port Authority's communication regarding an estimated fee, required to be paid before access is provided, within such time limitations, shall not be considered a denial.

Section 6: Appeal

(a) Any denial of a request for access to records by the Secretary (or designee(s)) may be appealed by the requester to the Appeal Office within thirty days of a denial.

(b) Pursuant to the New York Freedom of Information Law, a requester must first exhaust the appeals process under this Section before the requester may bring a proceeding for review of any denial of a request for access to records in the courts of the State of New York, in accordance with New York Public Officers Law Section 89(4)(b).

(c) Pursuant to the New Jersey Open Public Records Act, a requester may institute a proceeding to challenge the denial of a request for access to records by the Secretary (or designees), by filing an action in New Jersey Superior Court or a complaint with the Government Records Council, as set forth in Section 47:1A-6 of Title 47 of the New Jersey Statutes, without first filing an appeal under this Section. If, however, such person elects to file an appeal under this Section in lieu of first proceeding by filing an

action in New Jersey Superior Court or a complaint with the Government Records Council, as set forth in Section 47:1A-6 of Title 47 of the New Jersey Statutes, the limitations period applicable to any claim under Section 47:1A-6 arising out of a denial of a request for access to records shall be tolled and suspended until such time as the appeal is denied.

(d) The time for deciding an appeal by the Appeal Office shall commence upon receipt of a written appeal identifying:

- (1) the date and location of requests for records; and
- (2) a description, to the extent possible, of the records that were denied.

(e) A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

(f) The Secretary of the Port Authority (or designee(s)) shall notify the Chairman of the Committee on Governance and Ethics of the Port Authority Board of Commissioners when any proceeding is commenced in the Courts of New York, Courts of New Jersey or the Government Records Council seeking review of a denial of a request for access to records.

(g) This Section shall not be construed to affect any right of any requester at law.

Section 7: Fees

(a) The Secretary may determine whether, and in what amount, fees may be charged for the fulfillment of requests for access to records.

(b) Any fee schedule used by the Secretary shall be posted on the Port Authority's website, and the Secretary shall be responsible for maintaining it in updated form.

(c) For any fee that is calculated, in whole or in part based on the agency's actual cost in searching for and producing copies of records, the Secretary (or designee(s)) shall perform and document such calculation.

(d) The Secretary may require payment of any fee charged under this Section 7 before access to records is granted.

(e) For any fee charged under this Section 7, the Secretary (or designee(s)) shall inform the requester of the estimated fee before the charge is incurred.

Section 8: Intent

This Public Records Access Policy is intended to comply with both the New York Freedom of Information Law and the New Jersey Open Public Records Act. To the extent any person who makes a request for records contends that the Policy is in any way inconsistent with the New York Freedom of Information Law or the New Jersey Open Public Records Act, the Policy shall be interpreted in a way that renders it consistent with those laws.

; and it is further

RESOLVED, that the Resolution adopted on October 22, 2014, entitled “Access to Port Authority Records – Enhanced Transparency and Efficiency – Revised Freedom of Information Policy” shall be, and hereby it is, rescinded.