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Legal Alerts

Public Record Reporting Requirements: Guidance Issued for Washington Public Agencies

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On November 17, 2017, the Joint Legislative Audit and Review Committee (JLARC) issued guidance on the new reporting requirements enacted by the legislature in 2017. Engrossed Substitute House Bill 1594 , which became effective July 23, 2017, requires all agencies to maintain a log of all public records requests submitted to the agency, and imposes more detailed reporting requirements for agencies that spend at least $100,000 on staff and legal costs associated with fulfilling public records requests in the past fiscal year. *See* RCW 40.14.026(4), (5). These detailed reporting requirements include the average time to acknowledge and close out records requests; the number of requests abandoned by requesters; the type of requester (i.e., law firm, media, incarcerated persons, etc.), to the extent that information is known; and the estimated agency staff time spent on each request. RCW 40.14.026(5).

The JLARC guidance document provides agencies direction on the detailed reporting requirements, including (1) how to calculate the $100,000 threshold and (2) for agencies exceeding the $100,000 threshold, what data they should be collecting for submission by July 1, 2018.

For example, in calculating the threshold amount, agencies need not include litigation costs, but should include "the use of outside counsel or in-house chargebacks" for advising on exemptions and reviewing responses. Agencies should also include staff compensation and benefits for public records officers, a percentage of overhead costs attributable to any such staff, and a reasonable estimate of the cost of other staff time spent identifying records for disclosure.

Agencies who exceed this threshold should review the JLARC guidance, as it fleshes out what agencies will be required to report in July 2018, and may impact how agencies collect data for the remainder of 2017 and 2018. For example, the new bill requires reporting of "[m]easures of requestor satisfaction with agency responses, communication, and processes relating to the fulfillment of public records requests." RCW 40.14.026(5)(q). The JLARC guidance provides, "To respond to this metric, an agency will be asked to identify the measures the agency considers to determine customer satisfaction, as well as the methods the agency uses to collect data on those measures."

If you have any questions, contact a member of our Public Records & Open Government team.

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