

How to avoid data horror stories

MaryJo Webster
St. Paul Pioneer Press
mwebster@pioneerpress.com
651-228-5507
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Here are some basic tips for requesting data or documents using the **Minnesota Government Data Practices Act (DPA)** that should improve your chances of getting what you want, without headaches.

- 1) Put your request in writing and insist that the agency respond to you in writing, as well. It can be an email. Just ensure you are creating a paper trail. And keep copies of all your correspondence (both what you send and what you receive)
- 2) Do some homework in advance. Try to talk to someone at the agency to get a sense of what they have that corresponds to what you want. Perhaps there is a particular name for what you're asking for. It's also possible that what you want isn't in a document or database in the way that you want it. (i.e. let's say you ask the city police department for a tally of all crimes by day of the week. If they don't already have a piece of paper or spreadsheet or some other tangible item with the information in that way, they aren't required to create it for you)
- 3) Remember that you can only ask for data or documents. So let's say you want to find out which companies bid on a particular project the city is undertaking. If you ask for "the names of the companies that bid on the project", the city doesn't necessarily need to give you that because you're not asking for a document. Instead, you would ask for either, "Copies of all of the bids submitted for the project" or "Any documents listing the names of the companies that bid on the project."
- 4) Ask to "inspect" documents rather than "copy." Inspecting is free. An agency can charge you (but is not required) for any costs incurred to make copies. The cost — and the work involved to make copies — tends to be one of the trouble spots for getting access to data.
- 5) If you do want to get copies, include in your request letter/email a line that says, "If there will be any cost for this data, please provide an estimate to me in advance of fulfilling this request." Just so you're not blindsided by a big bill.
- 6) If they are going to charge you, ask them to itemize the charges and then make sure they are abiding by the law. They can't charge for time to "redact" private from public data. They can't charge for the time it takes a computer to export data (but they can charge you the time it takes someone to write the necessary code). They can't charge for the time it takes them to verify that the data is accurate. For paper records, there are clear rules about cost. See this great guidance: <http://www.ipad.state.mn.us/docs/copycost.html>. For electronic records (spreadsheets or other data files), it's much more complicated.
- 7) If an agency denies your request...Do not settle for "you can't have that" or "it's private" or "it's not public." Require the agency to follow the DPA, which says the agency MUST tell you the exact statute in the DPA that allows the information to be withheld. Remember the DPA assumes that all government data is public, unless otherwise exempted. So it's the agency's responsibility to prove to you that something is truly exempt from public access. Then go look up that statute number online and read it. See if it makes any sense.

- 8) Use past advisory opinions, by the Commissioner of Administration, to help support your case. IPAD's website allows you to search past opinions by key words. And the IPAD staff are enormously helpful in pointing you to the right opinions. www.ipad.state.mn.us
- 9) It's quite common for private and public data to be co-mingled. A single document might have some private data on it, but that doesn't necessarily mean the whole document is private. That's where the agency is responsible to redact the private information and give you everything else. Same holds true to databases.
- 10) Don't expect to get the information immediately. The DPA allows agencies a "reasonable" amount of time to respond to requests, but does not give a specific time table. There have been some IPAD advisory opinions, such as this one that said 7 weeks was too long. <http://www.ipad.state.mn.us/opinions/1996/96013.html>. Keep in mind that some things might require more time than usual. Examples: materials that had been archived and information stored in database, particularly if nobody has ever requested it before. If your request includes multiple items, one option is to include a line in your request letter asking that the agency "provide the data as it becomes available" instead of waiting to give you everything at once.
- 11) The DPA requires agencies to give you information in the format you request (i.e. PDF, spreadsheet, text file) as long as the information is stored in that format. So if they keep something in a database and you ask for a data file, they are required to give you a data file that you can open in your own database or spreadsheet software.
- 12) One way to find out if an agency has given out this data before (especially if they are denying you now), is to file a DPA request for copies of all the previous requests for the same information, plus any written responses the agency made to those requestors.
- 13) If they tell you that they no longer have the information you requested (i.e. that they destroyed it), ask for a copy of their "retention policy" to see how long they were required to keep it.
- 14) Don't overwhelm agencies with a voluminous request. Split them into several bite-sized chunks, if necessary. Pick off the easy, uncontested items first, then file subsequent requests for any which you think might spark a battle. Once the relationship becomes adversary or a legal battle appears to loom, even things that seem to be clearly public record are often contested.