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Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Comptroller of the Treasury
Division:	
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0380-05-10	Access to Public Records Maintained by the Office of the Comptroller of the Treasury
Rule Number	Rule Title
0380-05-10-.01	Purpose and Scope
0380-05-10-.02	Definitions
0380-05-10-.03	Requests for Access to Records
0380-05-10-.04	Requests for Reproduction of Records
0380-05-10-.05	Fees and Costs for Reproduction of Public Records
0380-05-10-.06	Payment for Reproduction of Public Records
0380-05-10-.07	Waiver of Fees

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rules
Of
Comptroller of the Treasury

Chapter 0380-05-10

Access to Public Records Maintained by the Office of the Comptroller of the Treasury

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0380-05-10-.01 Purpose and Scope

- (1) These rules are promulgated for the purpose of providing procedures to allow access to those records made or received by the Office of the Comptroller of the Treasury that are subject to inspection and to reproduction pursuant to the Tennessee Public Records Act, T.C.A., Section 10-7-501, et seq., while preserving the confidentiality of confidential records and/or confidential information as provided in Federal or State law. These rules are also promulgated for the purpose of implementing and establishing procedures and standard fees to be charged for the reproduction or duplication of public records maintained by the Office of the Comptroller of the Treasury. These rules do not govern charges for the reproduction or duplication of public records, when separate statutory authority exists establishing the fee to be charged or the formula for charging.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq.

0380-05-10-.02 Definitions. As used in these rules, the following terms are defined as follows:

- (1) "Comptroller" means the Comptroller of the Treasury.
- (2) "Comptroller's Office" means any of the divisions, sections or offices under the authority of the Comptroller.
- (3) "Confidential record" means any record of the Comptroller's Office that is considered confidential, privileged, or protected under law.
- (4) "OORC" means the Office of Open Records Counsel.
- (5) "Public Record" means any record of the Comptroller's Office that is open to inspection by any citizen of the State of Tennessee under the provisions of the Public Records Act, and is not otherwise considered a confidential record under law.
- (6) "Public Records Act" or "TPRA" means the Tennessee Public Records Act as codified in T.C.A., Section 10-7-501, et seq.
- (7) "Record" means any document or stored information, in any form, that has been generated or received and is maintained by the Comptroller's Office pursuant to law or in connection with the transaction of the

business of the Comptroller's Office; "record" also includes a system of records. A record may or may not be a public record.

- (8) "Records Custodian" means an employee of the Comptroller's Office who has direct supervisory authority over the specific division, section or office of the Comptroller's Office where the requested records are maintained.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq.

0380-05-10-.03 Request for Access to Records

- (1) A request for access to or inspection of records shall be made during the regular business hours of the Comptroller's Office from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.
- (2) Requests for access to or inspection of records may be made orally or in writing to the appropriate division within the Comptroller's Office, and shall identify with sufficient detail the record which is requested.
- (3) All requestors are required to present a valid (current) Tennessee driver's license to staff prior to inspection of the records requested. If a requestor does not have a valid Tennessee driver's license, but does have photo identification with a home address that has been issued by a Tennessee governmental entity, such identification will be accepted. If a requestor has government issued photo identification without a home address, then additional documentation of Tennessee citizenship must be presented. The sufficiency of such documentation will be determined on a case by case basis, after consultation with General Counsel for the Comptroller's Office.
- (4) All requests for access to or inspection of records will be processed promptly and in accordance with all applicable time frames enumerated in the TPRA. If the request for access is not sufficiently detailed for the records custodian to determine what records are being requested, the Comptroller's Office will contact the requestor and will not begin complying with the request until an amended request is made that is sufficiently detailed.
- (5) Prior Review and Assessment for Confidential, Privileged or Protected Information or Data.
 - (a) Review, Assessment and Redaction of Records Prior to Inspection.
 1. Before providing access to the requested record, staff shall review the requested record as quickly as reasonably possible, and make an assessment of the scope and accessibility of the requested record.
 2. Upon review and prior to providing access to any record or portion of a record, staff shall redact any data or information that staff has reason to believe is or may be confidential, privileged or otherwise protected by law. When possible, staff shall provide the requestor the legal basis authorizing the redaction.
 - (b) If staff determines after this review and assessment that access to the requested public record can be provided, staff shall do so as promptly as possible.
 - (c) If it appears from staff's review and assessment that access to the requested public record cannot be made available for inspection within the time frame enumerated within the TPRA, staff shall notify the requestor in accordance with the provisions of the TPRA.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq.

0380-05-10-.04 Requests for Reproduction of Records

- (1) A request for reproduction of records shall be made during the regular business hours of the Comptroller's Office from 8:00 AM to 4:30 PM, Monday through Friday, except for holidays.

- (2) Requests for reproduction of records must be made in writing on the request form developed by the OORC and submitted to the appropriate division within the Comptroller's Office. The request must identify with sufficient detail the record which is requested.
- (3) All requestors are required to present a valid (current) Tennessee driver's license to staff at the time the request is submitted. If a requestor does not have a valid Tennessee driver's license, but does have photo identification with a home address that has been issued by a Tennessee governmental entity, such identification will be accepted. If a requestor has government issued photo identification without a home address, then additional documentation of Tennessee citizenship must be presented. The sufficiency of such documentation will be determined on a case by case basis, after consultation with General Counsel for the Comptroller's Office.
- (4) All requests for reproduction of records will be processed promptly and in accordance with all applicable time frames enumerated in the TPRA. If the request for reproduction is not sufficiently detailed for the records custodian to determine what records are being requested, the Comptroller's Office will contact the requestor and will not begin complying with the request until an amended request is made that is sufficiently detailed.
- (5) Prior Review and Assessment for Confidential, Privileged or Protected Information or Data.
 - (a) Review, Assessment and Redaction of Records for Reproduction Request.
 1. Before reproducing the requested record, staff shall review the requested record as quickly as reasonably possible and make an assessment of the scope and accessibility of the requested record.
 2. Upon review and prior to reproducing the record, or portion of the record, staff shall redact any data or information that it has reason to believe is or may be confidential, privileged or otherwise protected by law. When possible, staff shall provide the requestor the legal basis authorizing the redaction.
 - (b) If staff determines after this review and assessment that reproduction of the requested public record can be provided, staff shall do so as promptly as possible in accordance with Section 0380-05-10-.05 below.
 - (c) Staff, consultants, or contractors for the Comptroller's Office are responsible for the reproduction of any requested public record. A requestor does not have the right to reproduce requested public records through use of the requestor's own equipment or supply the necessary equipment or supplies for reproduction of the requested public records.
 - (d) If it appears from staff's review and assessment that reproduction of the requested public record cannot be produced either immediately or within the time frame enumerated within the TPRA, staff shall notify the requestor in accordance with the provisions of the TPRA.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq.

0380-05-10-.05 Fees and Costs for Reproduction of Public Records

- (1) Prior to the reproduction of requested public records, staff shall provide the requestor a reasonable estimate of the fees associated with the reproduction of the public record in writing. The estimate shall include the cost of delivery when applicable and any other necessary fee, including labor, which shall be calculated in accordance with the Schedule of Reasonable Charges established by the OORC.
- (2) Per page fees charged shall comport with the fees established in the Schedule of Reasonable Charges.
- (3) Fees charged for reproduction of any public record on any medium not specified in the Schedule of Reasonable Charges shall be the actual cost to the Comptroller's Office for that medium.

- (4) If staff, a consultant, or a contractor is required to create a new or modified computer program or application in order to reproduce requested data or extract requested data or information utilizing an existing computer program, the requestor shall be charged a fee that comports with the Schedule of Reasonable Charges for all necessary labor.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq.

0380-05-10-.06 Payment for Reproduction of Public Records

- (1) Prior to reproduction of public records, the creation of a new or modified computer program required to reproduce requested data or information, or the extraction of requested information or data, payment of the estimate must be made to the Office of Management Services, Division of Accounts, payable to the Office of the Comptroller of the Comptroller of the Treasury, unless the payment is waived pursuant to Section 0380-05-10-.07 below.
- (2) Payment may only be made by check, cashier's check, or money order.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq

0380-05-10-.07 Waiver of Fees

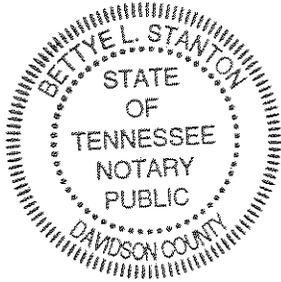
- (1) All fees associated with the reproduction of records, including any delivery and labor fees, will be waived when the total amount of such fees are equal to or less than Twenty-five Dollars (\$25.00). Any fees associated with the reproduction of records above Twenty-five Dollars (\$25.00) shall be charged as otherwise provided by this Chapter, unless waived pursuant to Paragraph (2) below.
- (2) If the Comptroller determines it is in the best interest of the Comptroller's Office, charges above Twenty-five Dollars (\$25.00) may also be waived.

Authority: T.C.A. §§ 8-4-108, 8-4-604, and 10-7-501 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 05/30/2012 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



Date: May 30, 2012
 Signature: [Handwritten Signature]
 Name of Officer: Justin P. Wilson
 Title of Officer: Comptroller of the Treasury

Subscribed and sworn to before me on: May 30, 2012
 Notary Public Signature: [Handwritten Signature]
 My commission expires on: July 6, 2012

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter
6-27-12
 Date

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 SECRETARY OF STATE
 TENS. DIVISIONS

Filed with the Department of State on: 7/10/12
 Effective on: 12/29/12
[Handwritten Signature]
 Tre Hargett
 Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The Office of the Comptroller of the Treasury anticipates that this rule will have no financial impact on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Office of the Comptroller of the Treasury anticipates that this rule will have no financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule provides procedures for allowing access to public records made or received by the Office of the Comptroller of the Treasury, and provides procedures and fees to be charged for reproduction of public records by the Office of the Comptroller of the Treasury.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 10-7-503 allows a records custodian to charge reasonable costs for producing records based on the schedule of reasonable charges created by the Office of Open Records Counsel under T.C.A. § 8-4-604.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Tennessee citizens and news organizations.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Robert T. Lee, General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Robert T. Lee, General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None