

we grow communities



Triad Associates Newsletter

January 2010

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**NJDEP Greenhouse
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Postponed**

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## Handling OPRA Requests

The Open Public Records Act (OPRA) increased the accessibility of government records to the public. It also provided a compliance process for agencies that hold public records; along with an illustration of penalties should an agency not comply with the public's request. With the inception of OPRA, the State of New Jersey created the Government Records Council (GRC) to assist both records custodians as well as the public. The GRC responds to inquiries and complaints about the law from the public and public agency records custodians, issues public information and advisory opinions, and provides mediation and resolves disputes concerning the access of government records.

Public agencies that are subjected to OPRA include counties, municipalities, fire districts, school boards, zoning and planning boards and business improvement districts. The custodian of the public record must have an official OPRA form with an identifiable "OPRA logo" available to the public. If you do not have an official form, you can download a Model Request Form from the GRC website. All public inquiries must be submitted on an official OPRA form. Lack of an official request form is not a valid defense for not adhering to the provisions of OPRA. The custodian of records typically is the municipal clerk, however, the municipality can designate other employees as records custodians, especially when public records are held in various locations. According to the NJSA Statute, the custodian of the record must grant or deny access to the

leadership in the Governor's Office, the NJ Department of Environmental Protection has decided that they will postpone the grant announcements for their Greenhouse Gas Local Government Grants. More information will follow when the new administration takes office and provides guidance regarding the funding process. Any changes will be reported on their [website](#).

## Quick Links

[More About Us](#)

## New Clients

Triad would like to acknowledge and welcome our newest clients:

City of New Brunswick

City of Camden

Jersey City  
Redevelopment Authority

Cumberland County  
Technical Education  
Center

## Text Messaging Privacy to Be Clarified by U.S. Supreme Court

In a controversy that is sure to generate considerable interest among public and private employers alike, the U.S. Supreme Court agreed in December to hear a case that centers on the use of

record no later than 7 business days after the request has been received. Budgets, bills, vouchers and contracts must be given immediate access, and if the record is archived or in storage, a written notice is necessary if the document cannot be retrieved within the 7 day period. The record custodian is permitted to charge the public for the request. The basic per page copy fees are \$0.75 for the first 10 pages, \$0.50 for pages 11-20 and \$0.25 for pages 20 and beyond. Special service charges may be made for extraordinary requests and must be based on actual costs.

According to the Government Records Council, the OPRA responsibilities of the records custodian include:

- adopting forms for requests
- locating and redacting documents
- isolating exempt documents
- assessing fees and means of production
- identifying requests that require "extraordinary expenditure of time and effort" and warrant assessment of a "special service charge," and
- when unable to comply with a request, "indicate the specific basis"

The Government Records Council has prepared an OPRA Handbook to assist public agency records custodians with the requirements of the Open Public Records Act. The GRC states that the handbook should be used as a reference and is not a substitute for legal advice. Any issues regarding the dissemination of public records that could result in a dispute should be taken under the advice of counsel. To view the OPRA handbook click [here](#).

In addition, the GRC operates a toll-free inquiry hotline to which requestors of government records and records custodians may call to obtain guidance regarding the Open Public Records Act. The toll-free number is 1-866-850-0511.

The GRC publishes a periodic newsletter regarding hot topics on OPRA, as well as recent GRC and court decisions concerning access to government records. To subscribe to The OPRA Alert, click on the link entitled "Sign-up for GRC News" on the left side of the page [here](#).

Overall, the Government Records Council has a wealth of information on its website, including training materials, meeting times, best practices, OPRA forms, advisory opinions and prior decisions. To access this information visit the NJ.gov [website](#).

## Recent Grant Awards

The Borough of Woodbine recently received two grants from the NJ Department of Transportation for a combined amount of \$825,000. The Borough received \$325,000 through the Local Aid/Bikeways program for Phase II of a bike trail along the Cape May Seashore Line and \$500,000 from the Centers of Place program for Phase V of the Borough's Town Center Streetscape Improvements Plan.

text messaging on employer-owned equipment.

A Federal appeals court in California ruled that the Ontario, California Police Department violated the rights of a police sergeant by reading messages sent on his work-issued pager to his girlfriend. In spite of signing a city policy form limiting the use of the pager to police and city business only, City officials determined that hundreds of personal messages were sent from the offending pager.

Many legal experts argue that there is a need for clarity in this matter and welcome the Supreme Court's decision to hear the case. In a decision entitled *O'Connor v. Ortega* which is now more than 20 years old, the Court ruled that employees have a reasonable right to expect privacy in the workplace, but that employers have a companion right to intrude into that expectations where circumstances warrant.

In an age where communication is changing rapidly and where new technologies are introduced almost every year, the parameters governing individual and corporate rights are also changing. This court decision will have far reaching implications for employers and employees alike.

Stay tuned! A decision is expected by June 2010.

Buena Vista Township also received \$148,000 from NJDOT through the Local Aid/Bikeways program for a bike trail that will intersect with Main Street.

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## Energy Efficiency and Conservation Block Grants (EECBG)

The State of New Jersey will receive \$76 million through the Department of Energy's EECBG program. Of that amount, \$61.1 million will be distributed to 75 eligible counties and municipalities, based on population. The bulk of the remaining money (\$10.3 million) will be made available to counties and municipalities that were not eligible for the direct formula grants for energy efficient programming. For those local governments that complete an energy audit, the State will provide up to \$20,000 for energy efficiency upgrades. The New Jersey Clean Energy Program will subsidize 75% of the audit and if the net cost of the installed measures recommended by the audit, after applying eligible NJ SmartStart Buildings incentives, exceeds the remaining cost of the audit, the additional 25% will also be paid by the program. For more information on how to start the Energy Audit process contact Triad or visit BPU's [website](#).

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## Funding Opportunities

The Tony Hawk Foundation announces funds to promote high-quality, public skateparks in low-income areas. States, local governments, nonprofit organizations and community-based organizations are eligible to apply. The awards will range from \$1,000 to \$25,000. The deadline is March 1, 2010. For more information visit their [website](#).

The 21st Century Museum Professionals Grant Program guidelines are now available. Applications must be submitted through Grants.gov. Grants will fund a wide range of activities, including the development and implementation of classes, seminars, and workshops; resources to support leadership development; collection, assessment, development, and/or dissemination of information that leads to better museum operations; activities that strengthen the use of contemporary technology tools to deliver programs and services; support for the enhancement of pre-professional training programs; and organizational support for the development of internship and fellowship programs. Museums, along with public and private not-for-profit agencies designed to advance museums are eligible to apply. The awards will range from \$15,000 to \$500,000 up to three years. There is a 1:1 match requirement and the deadline is March 15, 2010. More information can be found [here](#).