

ACCESS TO PORT PUBLIC RECORDS

EX-19 POLICY AND PROCEDURE as of December 28, 2016

Supersedes EX-6 Procedure

Original: 4/1/66 (Care/Custody/Control of Documents/Records; 8/1/79 (Records Retention; 1/1/83 (Public Access to Port Records)

I. POLICY

The Public Records Act, RCW 42.56, requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish procedures to inform the public how access to public records will be accomplished.

The purpose of this procedure is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration. These procedures will be guided by the provision of the Act describing its purposes and interpretation. (This procedure is applicable to all departments but is not applicable to Police Department records subject to Chapter 10.97 RCW.)

II. DEFINITIONS

- A. **Public Record:** Is a writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the Port of Seattle. These include Commission Records.
- B. **Writing:** Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; papers, maps, magnetic or paper tapes, photographic film and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including data compilations from which information may be obtained or translated. An email is a writing.
- C. **Office of Record:** The office designated to maintain the record or official copy of a particular record in an organization.
- D. **Identifiable Record:** An identifiable record is one in existence at the time the records request is made and that Port staff can reasonably locate.
- E. **Exempt Record:** All agency records are available for review by the public unless they are specifically exempted or prohibited from disclosure by state law, either directly in RCW 42.56 or other statutes

- F. **E-mail:** Electronic mail in an informational transfer system which uses computers for sending and receiving messages. It is comprised of individual units of information divided into an “envelope” and the message contents. The envelope, or message header, contains the mailing address, routing instructions, transmission and receipt information, and other information the system needs to deliver the mail item correctly. Email messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions.

III. PROCEDURE

A. *PUBLIC DISCLOSURE MANAGER/PUBLIC RECORDS OFFICER*

Any person wishing to request access to public records or seeking assistance in making a request should contact the Port’s public records officer. The Records Program Manager has been designated the Port’s Public Disclosure Manager/Public Records Officer.

The Public Disclosure Manager/Public Records Officer will oversee compliance with the Public Records Act, but may designate other staff members who may process requests for public records.

The Public Disclosure Manager/Public Records Officer or the designees will provide the fullest assistance to requestors, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with the essential functions of the Port.

Requests for records other than Police records: Requests to inspect or copy any records maintained by the Port, other than Police records, should be made to the Public Records Office at:

Public Records Officer
Port of Seattle
P.O. Box 1209
Seattle, WA 98111

Phone: (206) 787-4141
FAX: (206) 787-3205
E-mail: public-disclosure@portseattle.org

Request for Police records: Police records are maintained by the Police Department

Contact the Police Department at (206) 787-4631 or via email at pospdrecords@portseattle.org.

Many records are also available on the Port of Seattle web site at: www.portseattle.org. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

B. AVAILABILITY OF PUBLIC RECORDS

1. **Hours of inspection:** Public records are available for inspection and copying during the Port of Seattle's normal business hours: Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Port staff and the requestor may make mutually agreeable arrangements for times of inspection and copying.
2. **Place of inspection:** Records will be made available for inspection at Port offices. Staff and the requestor may make mutually agreeable arrangements for inspection if the particular records being sought are maintained in field offices. Port records cannot be removed from Port offices.
3. **Electronic access to Port records:** To the extent practical, the Port will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the Port may provide access to public records by providing links to the web site containing an electronic copy of the record, providing records on disk, or transmitting the responsive record via e-mail. The Public Records Officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records.

C. MAKING A REQUEST FOR PUBLIC RECORDS

1. **Any person wishing to inspect or copy identifiable public records of the Port of Seattle should make the request in writing in one of the following ways:**
 - a) On the provided request form available on line on the Port's web site at this location: <http://www.portseattle.org/About/Contact/Pages/Public-Records-Request.aspx>,
or at the front desk at the Pier 69 offices or at the reception desk at the airport.
 - b) By letter, fax or email addressed to the Public Records Office at the following e-mail address: public-disclosure@portseattle.org.

The following information should be included in the request:

- a) Name and address of requestor;
- b) Other contact information, including telephone number and email address;
- c) Identification of the requested records adequate for the Public Records Office to locate the records; and
- d) The date and time of day of the request.

3. **Copies:** If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to make a deposit or pay for the copies. The Port will make every reasonable effort to provide electronic copies of requested records.

4. **Requests made directly to Port department:** Requests for public records that are made directly to departments shall be delivered to the Public Records Officer immediately upon receipt for coordinated processing.

D. PROCESSING PUBLIC RECORDS REQUESTS

1. **Providing “fullest assistance”:** These procedures identify how the Port will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors and provide the timeliest response to public records requests.
2. **Acknowledging, receipt and fulfilling requests:** Within five business days of receipt of the request, the Public Records Office will do one or more of the following:
 - Make the record available for inspection or copying;
 - Acknowledge that the request has been received and provide a reasonable estimate of when records will be available;
 - If the request is unclear or does not sufficiently identify the requested records, request clarification in writing from the requestor.
 - Deny the request.

The Port may respond to a request to provide access to a public record by providing the requestor with a link to the Port’s web site containing an electronic copy of that record if the requestor advises that he/she has internet access.

3. **Reasonable estimate of time to fully respond:** If not able to respond within the five-business-day period, the Public Records Office must provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare a privilege log, notify third party persons or agencies affected by the request and/or consult with the Port’s attorneys about whether the records are exempt from disclosure.

Should an extension of time be necessary to fulfill the request, the Public Records Office will provide a revised estimate and explain the changed circumstances that make it necessary.

4. **Consequences of failure to clarify a request:** If the requestor does not respond to the Port's request for clarification with 30 days of the Port's request, the Public Records Office may consider the request abandoned, send a letter closing the response to the requestor, and re-file the records.
5. **Records exempt from disclosure:** Some records are exempt from disclosure, in whole or in part.

If the Port believes that a record is exempt from disclosure and should be withheld, the Public Records Office will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld.

If only a part of the record is determined to be exempt, the Public Records Office will redact the exempt portions and provide the non-exempt portions.

6. **Inspection of records:** If the requestor has sought to inspect records, the Public Records Office will provide contact information in order to arrange an appointment for onsite inspection of records. The requestor must review the assembled records within thirty days of the notification that the records are available for inspection. If the requestor or a representative of the requestor fails to review the records within the thirty-day period, or make other arrangements, the request may be closed and the records will be re-filed.

Members of the public may not remove documents from the view area or disassemble or alter any document.

7. **Providing copies of records:** The requestor shall indicate which documents he or she wishes to have copied using a non-permanent method of marking the desired records. After inspection is complete, the office of record will arrange for copying.
8. **Providing records in installments:** When the request is for a large number of records, the Public Records Office will provide access for inspection and copying in installments if it is reasonably determined that it would be practical to provide the records in that way. If the requestor fails to inspect the entire set of record or one or more of the installments within 30 days, the Public Records Office will notify the requestor in writing that unless the requestor comes to inspect records within 30 days the Port will deem the request abandoned.

9. **Closing withdrawn or abandoned requests:** If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit or final payment for the requested copies, the Public Records Office will close the request and indicate to the requestor that the Port has closed the request. The Public Records Office will document closure of the request and the conditions that led to closure. If the requestor does not provide needed clarification after 30 days, the Public Records Office will close the request.

10. **Later discovered documents:** If, after the Public Records Office has informed the requestor that the Port has provided all available records, the Port becomes aware of additional responsive documents that existed on the date of the request, the Public Records Office will promptly inform the requestor of the additional documents and provide them on an expedited basis.

11. **No duty to create records:** The Port is not obligated to create a new record to satisfy a records request; however, the Port may, in its discretion, create such a record responsive to the request.

12. **No duty to supplement responses:** The Port is not obligated to hold current records requests open in order to respond to requests for records that may be created in the future. If a public record is created or comes into the possession of the Port after a request is received by the Port, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

13. **Exempt and prohibited disclosure of public records:**

The Port is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation.

 - a. The Port is prohibited by statute from disclosing lists of individuals for commercial purposes.
 - b. The Public Records Act, RCW 42.56, provides that certain public records are exempt from public disclosure, inspection and copying. A current list of these exemptions is attached as an addendum to this document.
 - c. Other statutes may exempt or prohibit disclosure of other documents and information.

E. Cost of providing copies

1. Per state law, the Port is not allowed to charge for locating a public record or for making records available for review or inspection. Under certain circumstances the Port may charge for the actual costs of copying public records, including the staff time spent making the copies.
2. The charge for standard black-and-white photocopies is fifteen cents per page. If the Port has to pay an outside firm for duplicating records in non-routine formats such as photographs, blueprints or tape recordings, the actual cost will be passed along to the requestor. The fee schedule for copies is available at the following link:
http://www.portseattle.org/downloads/about/Fee_Schedule.pdf
3. If the Port has a paper-only copy of a record that is being requested in electronic format, the requestor will be charged fifteen cents (\$.15) per page to scan the record.
4. Where the request is for a certified copy, an additional charge of one dollar may be applied to cover the additional expense and time required for certification.
5. The Port may also charge actual costs for long distance facsimile transmissions and/or mailing, including the cost of postage and the shipping container.
6. No sales tax is charged on copies of records.
7. The Port is not required to copy records at its own facilities and may determine to use a commercial copying center. The Port will bill the requestor for the amount charged by the vendor.
8. Deposit or payment by installments: Before beginning to copy records, a deposit of up to ten percent of the estimated cost of copying will be required if the copy cost exceeds twenty-five dollars (\$25.00). An estimate of the copy costs will be provided to the requestor so that they have the opportunity to decline having the copies produced. The Public Records Office may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.
9. Payment may be made by cash, check, or money order to the Port of Seattle.

10. The Public Records Officer has the discretion to waive charges for small requests, or for individuals or government agencies doing business with the Port if the Public Records Officer determines that this action is in the best interest of the Port.

F. Denial of requests for Public Records

Any person who objects to the initial denial or partial denial of a records request may petition in writing (including by email) to the Public Records Office for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.