

 STATEWIDE POLICY	NUMBER 107-001-030	SUPERSEDES
	EFFECTIVE DATE February 15, 2017	PAGE NUMBER Pages 1 of 2
DIVISION Office of the Chief Operating Officer	REFERENCE/AUTHORITY Executive Order 16-06	
POLICY OWNER Department of Administrative Services		
SUBJECT Public Records Requests Fees and Charges	APPROVED SIGNATURE Katy Coba, Director/Chief Operating Officer <i>(signature on file with DAS Business Services)</i>	

PURPOSE

This Policy is intended to support statewide consistency by establishing standards for state agency policies relating to the charging practices and policies for fulfilling requests for public records and providing a standard process for state agency use when evaluating requests to reduce or waive fees assessed for fulfilling a request.

Agencies must review and, if necessary, update their Public Records Request charging policies, practices and or administrative rules to comply with this Policy.

APPLICABILITY

This Policy applies to all agencies within the Executive Department, as defined in ORS 174.112, excluding the following:

- Secretary of State
- State Treasurer
- The Attorney General, but only with respect to its authority under ORS 182.124 over information systems security in the Department of Justice
- Oregon State Lottery
- State Board of Higher Education or any public university listed in ORS 352.002

The requirements in this Policy do not supersede, modify or replace the existing legal responsibilities of any state agency. Agencies must continue to meet obligations required by all applicable laws, policies, procedures and standards including without limitation: state and Federal public records laws, privacy laws and regulations, and applicable DAS policies and procedures.

EXCLUSIONS

Other than the excluded organizations listed above in the **APPLICABILITY** section of this Policy, there are no other exclusions.

EXHIBITS

- **EXHIBIT A: Statewide Standardized Fee-Structure Process Document**
- **EXHIBIT B: Statewide Standardized Fee-Schedule**
- **EXHIBIT C: Public Interest Threshold Evaluation Form (Fee-Waiver or –Reduction Request)**
- **EXHIBIT D: Statewide Reduced Fee-Schedule**

SPECIAL SITUATIONS

This fee-structure does not apply to agency-specific records with established pre-set price per record (e.g., vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.

COMPLIANCE

Agencies subject to this Policy must develop and implement internal processes and procedures that support compliance, deter abuse and detect violations.

Agencies may submit a written request for assistance within 90 days of the effective date of this Policy if implementation of this Policy causes undue financial hardship or over-burdensome workloads for agency staff. The request should specify: the policy section(s) and implicated requirements making implementation over-burdensome; and the type of assistance necessary for the agency to achieve compliance.

Exhibit A: Statewide Standardized Fee-Structure Process Document

Process

PUBLIC RECORDS REQUEST RECEIVED

Agencies shall waive 30-minutes of staff time (at a minimum).

An agency may deny eligibility for the 30-minute waiver if abuse by the requester is determined to exist either by:
1) Fragmenting a request that if taken in the aggregate would amount to significantly more than 30 minutes; or
2) Submitting multiple small requests in a short time-frame causing an undue burden on the agency.

FEE-WAIVER/REDUCTION REQUEST RECEIVED

Waiver Eligibility Determined

Agencies are statutorily required to consider and grant reasonable requests to waive and/or reduce fees associated with fulfilling a public records request when doing so is in the public interest because providing access primarily benefits the general public.

Public Interest Threshold Criteria Applied

See attached Public Interest Threshold Criteria Evaluation Form.

Public Interest Threshold Met

Public Interest Threshold Not Met

Full Waiver
All fees waived.

Partial Waiver
Reduced fee-schedule applied for any fees not covered by waiver.

Reduced Fee-schedule
No waiver available.

Standard Fee-schedule

Required Agency Communication w/ Requester:

- Notify requester of initial cost-estimate.
- Seek approval, prior to initiating work to fulfill a Public Records Request, if total costs estimated are > \$25.
- Work with requester to refine the scope of their request or otherwise reduce out-of-pocket cost when initial cost-estimate > \$250.

Exhibit B: Statewide Standardized Fee-Schedule

Standard Fee-Schedule

Agencies shall waive a minimum of 30 minutes of staff time for all Public Records Requests after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill a Public Records Request in accordance with the applicable fee-schedule below.

The hourly rate charged for additional staff time will be based on the level of skill or expertise required to complete the work performed. Meaning, if work done to fulfill a request requires clerical-level skills, agencies may only charge the clerical hourly rate time spent on that portion of the work (as a maximum), even if a managerial-level or professional-level employee actually fulfills the request on behalf of the agency.

Agencies will not charge for staff time spent witnessing records inspection when the estimated cost of making public records available for inspection is:

- less than the cost of providing the requestor with a copy of the public record; or
- insignificant (requested public records are readily accessible and do not require review, redaction or segregation).

Fees will be charged for staff time required to redact exempt information from requested public records prior to release.

Staff time

Fees for staff time required to fulfill a Public Records Request shall not exceed:

- **\$25/hour for Clerical** (administrative, office specialists, other support staff)
- **\$40/hour for Managerial** (Program managers, PIOs)
- **\$75/hour for Professional** (IT, HR, High-level Analyst)
- **DOJ, special attorney and other applicable legal fees:** at the actual hourly rate charged for Public Records Request-related services. Fees are subject to statutory limitations described in [ORS 192.440\(4\)\(b\)](#).

Production of Responsive Records

Fees generated by providing paper or electronic copies to requesters:

- **Copies:** Based on current state printing and distribution price list.
- **Media:** Based on statewide price-agreement with OfficeMax.
- **Postage:** Based on current postal rates.

Additional Cost Considerations

Miscellaneous fees related to production and release of responsive records:

- Expedited Archive retrieval
- Costs of software companies/contracts (as needed to manage the volume of request)
- Other 3rd party costs (in extreme circumstances)

***This fee-structure does not apply to agency-specific records with established pre-set price per record (e.g. vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.**

Exhibit C: Public Interest Fee-Waiver or -Reduction Request

Public Interest Threshold Evaluation Form

HOW TO USE THIS FORM:

Agencies are statutorily required to consider and grant reasonable requests to waive and/or reduce fees associated with fulfilling a public records request when doing so is in the public interest because providing access primarily benefits the general public.

The Public Interest Threshold Evaluation provides agencies with standardized criteria to use when evaluating a request for a fee-reduction/waiver submitted by a public records requestor under ORS 192.440(5). Agencies shall consider each factor to determine whether the public interest in disclosure of the requested records warrants granting a fee-reduction/waiver.

All requests for a Public Interest Fee-Waiver or -Reduction will be evaluated on a case-by-case basis using information provided by the requestor as well as information independently available to the agency.

ADDITIONAL GUIDANCE:

- To adequately balance the State's obligation to be transparent and accessible with the obligation to prudently safeguard public funds and resources, fee-waivers and -reductions should be granted when the statutory standard has been met – when disclosure will primarily benefit the general public.
- A request to waive or reduce fees related to a public records request, that requires substantial agency resources to complete, may be denied if the interest of the general public would be better served by preserving agency resources.
- The public interest is not a fixed concept and the balance of public interest may change over time. It may shift as information becomes older or in the light of issues of the day. The circumstances at the time of the request will be considered.
- A genuine public interest in the subject matter of a request is required as the basis for granting a waiver. The public interest is not necessarily the same as what interests the public. The fact that a topic has been discussed in the media does not automatically mean that there is a public interest in disclosing the information that has been requested about it.
- This standardized fee-structure does not supersede, modify or replace the existing legal responsibilities of any state agency. Agencies must continue to meet obligations required by applicable laws, policies, procedures and standards including without limitation: State and Federal public records laws, privacy laws and regulations and fees for certain public records as defined in statute.

Note:

Requests for fee-reduction or waiver will be evaluated on a case-by-case basis based on:

- **The information provided by the requester; and**
- **The totality of circumstances at the time of the request.**

Previous requests and evaluations will not be considered as part of the evaluation.

Exhibit C: Public Interest Fee-Waiver or -Reduction Request

Public Interest Threshold Evaluation Form

Date of Request: _____

Name of Requestor: _____

Requested Record(s): _____

PUBLIC INTEREST THRESHOLD CRITERIA

Public Interest Threshold Criteria Evaluation

Agencies shall consider the criteria below to determine whether waiving or reducing the costs associated with fulfilling a public records request would serve the public interest by primarily benefiting the general public.

Public Interest:

- | | | |
|---|---------------------------------|--------------------------------|
| 1. Would disclosure of the requested information, directly impact, affect, or serve an identified interest of the general public? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |
| 2. Would the requested information, advance the welfare or well-being of the general public? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |
| 3. Will the requester be able to actually, meaningfully disseminate the requested information? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |

Private or Commercial Interest:

- | | | |
|--|---------------------------------|--------------------------------|
| 4. Is the public benefit greater than the individual benefit derived from disclosure? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |
| 5. Is there a specifically identified purpose for which the public records are being sought that is wholly unrelated to 1) commercial purposes; or 2) actual or possible use in connection with administrative, judicial or legal proceedings? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |

Reasonableness:

- | | | |
|--|---------------------------------|--------------------------------|
| 6. Is the request targeted at a specifically identified matter (meaning, not overly-broad or -complex)? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |
| 7. Can the agency grant a waiver or reduce fees without causing an unreasonable burden on agency resources? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |
| 8. Is the public interest served by disclosure greater than the burden to the agency (amount of staff time diverted to fulfilling a request and costs of subsidization)? | YES
<input type="checkbox"/> | NO
<input type="checkbox"/> |

Determination/Decision:

Employee Name (Print)

Signature

Date

A yes or no determination regarding a single criterion or for majority of the criteria does not guarantee the granting of a fee-reduction or waiver. Each request will be considered on a case-by-case basis, based on the information provided by the requester and the totality of the circumstances at the time of the request.

Exhibit C: Public Interest Fee-Waiver or -Reduction Request

Public Interest Threshold Evaluation Form

Reduced Fee-Schedule

Agencies shall waive a minimum of 30 minutes of staff time for all public records requests after which fees may be assessed for additional staff time, applicable services and supplies required to fulfill a Public Records Request in accordance with the applicable fee-schedule below.

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Staff time

Fees for staff time required to fulfill a PRR shall not exceed:

- **\$20/hour for Clerical** (administrative, office specialists, other support staff)
- **\$32/hour for Managerial** (Program managers, PIOs)
- **\$60/hour for Professional** (IT, HR, High-level Analyst)
- **\$75/hour for DOJ, special attorney and other applicable legal fees.**

Production of Responsive Records

Fees generated by providing paper or electronic copies to requesters:

- **Copies:** Based on current state printing and distribution price list.
- **Media:** Based on statewide price-agreement with OfficeMax.
- **Postage:** Based on current postal rates.

Additional Cost Considerations

No additional cost considerations will be included in the invoiced amount passed on to the requester under this reduced fee structure.

***This fee-structure does not apply to agency-specific records with established pre-set price per record (e.g. vital records, licenses, police reports; DMV motor-carrier fees, etc.) or fees assessed for notarized/certified copies of public records.**

Exhibit D: Statewide Reduced Fee-Schedule

Reduced Fee-Schedule

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