

Effective Date:

1/1/17

Approval Authority:
Executive Director

Approval Date:

1/3/17

Public Access to Port of Benton Records

A. Scope of Policy

In accordance with RCW 42.56.040, this regulation establishes procedures for making requests under the Public Records Act. Requests by current employees for employment records should be made to the Director of Finance. Requests for all other records should be directed to the "Public Records Officer" located at 3250 Port of Benton Blvd, Richland, WA, 99354. This policy and a form for records requests shall be available on the Port of Benton website and shall be available to read and copy during business hours at the Port of Benton offices, located at 3250 Port of Benton Blvd, Richland, WA, 99354.

B. Public Records Officer

Any person wishing to request access to any public record of the Port of Benton (hereafter the Port), or seeking assistance in making such a request, shall make a request in writing or by e-mail, through the Port's Public Records Officer at the Port of Benton offices. The e-mail address of the Public Records Officer is: dezember@portofbenton.com. Contact information for the Public Records Officer is also available at the Port's website at: <http://portofbenton.com>.

The mailing address for the Public Records Officer is:

Public Records Officer
Port of Benton
3250 Port of Benton Blvd.
Richland, WA 99354

A Public Records Request form is posted on the Port's website for the requestor's convenience and is the preferred means of submitting requests to the Port. The form is located at: <http://portofbenton.com/your-port/public-records-request-form/>. The Public Records Officer will oversee compliance with the Port's policy and regulation on public records, but other staff may process or locate the request.

C. Records Index.

The Port finds that maintaining an index of all records is unduly burdensome and would interfere with Port operations due to the fact that the Port has too many documents to index, too many locations and buildings, and too many new documents being created. Creating and maintaining an index would significantly detract from the performance of essential Port job duties.

D. Organization of Port Records.

The Port will maintain its records in a reasonably organized manner. The Port will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Port Records from the Port offices without the permission of the Public Records Officer or duly authorized Port counsel. The Port will make efforts to make routinely requested documents available on its website at <http://portofbenton.com>. Requestors are encouraged to view the documents available on the Port's website prior to submitting a records request.

E. Port has no Duty to Create Records.

The Port is not obligated by law to create a new record to satisfy a records request. The Port may choose to create a new record depending on the nature of the request and the convenience of providing the information in a new document, such as when data from multiple locations is requested and can be combined into a single new record.

F. Request

1. A request for Port Records shall include the following information:

a. Name and address of the requestor;

- b. Other contact information, including telephone numbers and any email address;
- c. Identification of the Port Records requested. The request should identify with enough specificity what is requested to allow the Public Records Officer to locate the records; and
- d. The date of the request.
- e. If lists of individuals are requested, a statement that the information will not be used for commercial purposes.

2. The Public Records Officer may accept requests for Port Records that contain the above information by mail, email, or in person. If the Public Officer accepts such a in person, he/she will confirm receipt of the request in writing.

G. Responding to a Public Records Requests

1. Rules and Guidelines. The Port will provide full access to Port 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 most timely possible action on public records requests. The Public Records Officer will process requests in a reasonably efficient order, taking into account the scope of the request and the workload of staff assisting with the request.
2. Acknowledging Public Records Requests. Within five (5) business days of receipt of a request, the Public Records Officer will do one or more of the following:
 - a. Make the records available for inspection or copying or, if copies are requested and terms of payment are satisfied, including payment of a deposit if required, send copies of the documents to the requestor; or

- b. Provide a reasonable estimate of when the requested records will be available for inspection or copying; or
- c. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by email or regular mail. If the Port does not receive a response to its request, the Port may close the request and not respond further; or
- d. Deny the request; or
- e. Seek a court order enjoining disclosure; or
- f. Take such other action as is authorized by law.

3. Revision of Estimate. The Public Records Officer may revise the estimate of when records will be available and notify the requestor of the revised estimate.

4. Protecting Rights of Others. In the event that requested records contain information that may affect the rights of others and/or may be exempt from disclosure, the Public Records Officer may, prior to providing the records, give notice to such other people.

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 Officer will identify the withheld record or portion of records, 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 portion of a record is exempt from disclosure, the Public Records Officer will redact the exempt portions, provide the non-exempt portions, and state why portions of the record are being redacted.

6. Providing Copies of Records. After inspection is complete or if the requestor asks for copies in lieu of inspection, the Public Records Officer shall arrange for the documents to be copied.

7. Costs for Paper Copies. There is no fee for inspection of Port Records. There is no fee for the production of 25 pages of documents or less. It would be unduly burdensome for the Port to determine an actual per page cost for records, therefore a requestor will be required to pay the statutory per page rate (currently \$0.15 per page, RCW 42.56.070(8)) for black-and-white copies on paper that is 8.5" by 14" or smaller. The Public Records Officer is authorized to create a fee schedule based on actual costs for other sized copies.

8. Costs for electronic copies. There is no fee for inspection of Port Records. WAC 44-14-07003 strongly encourages provision of electronic records rather than paper copies. Should the Port receive a request for documents that are not already available in an electronic format, paper documents may be scanned in and provided at a cost of \$0.05 per page. The electronic format records (most likely PDFs) may be emailed to the requestor if under the email attachment limit, or mailed to the requestor on a USB flash drive at an additional cost of \$2.00.

9. The Public Records Officer may require that all copying, shipping, and material fees be paid in advance of the release of the copies. In addition, the Public Records Officer may require a deposit of up to 10% of the estimated cost to copy all records selected by the requestor. If a request is provided in installments, the Port is not obligated to fulfill the balance of a request if a prior installment has not been claimed, reviewed, or paid for by the requestor.

10. Costs of Mailing and Materials. The Port may charge for the actual costs of mailing, including but not limited to the cost of the shipping container and postage. The Port may also charge for the actual costs of oversized photocopies, such as architectural drawings. The Port may also charge for materials used to respond to a public records request such as a CD, DVD or videotape. The Port may also charge a reasonable fee to scan documents into a PDF format. The Public Records Officer is authorized to determine a fee schedule for these actual costs.

11. Providing Records in Installments. When the request is for a large volume of records or records maintained at numerous locations, the Public Records Officer may elect to respond to the public record request in installments upon notification to the requestor. If the requestor fails to inspect an installment within 30 days of notification that the installment is ready for review or copying, the Public Records Officer may deem the request abandoned and is not obligated to fulfill the remainder of the request. When the disclosure of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate in writing that the Port has completed a diligent search for the requested records and make any non-exempt records located available for inspection.

H. Inspection of Records.

1. Consistent with other demands and without unreasonably disrupting Port Operations, the Port shall promptly provide for the inspection of non-exempt Port Records. No member of the public may remove a document from the designated viewing area or disassemble or alter any document. The requestor shall indicate which documents they wish the Port to copy. The requestor must claim or review the assembled records within 30 days of the Port's notification that the records are available for inspection or copying. The Port will notify the requestor in writing of this requirement and inform the requestor that he or she should contact

the Port to make arrangements to claim or review the records. If the requestor fails to claim or review the records within the 30-day period or make other arrangements, the Port may close the request and is not required to respond further.

2. Hours of Inspection. Port Records must be inspected at the Port of Benton Building. Public records are made available for inspection and copying during normal business hours of the Port, Monday through Thursday, 8:00 a.m. to 4:00 p.m., and Fridays, 8:00 a.m. to noon, excluding Port holidays. Port holidays are set forth on the calendar available on the Port's website, but normally include all state holidays, Christmas Eve and New Year's Eve.

I. Closing a Withdrawn or Abandoned Request.

When the requestor either withdraws the request or fails to fulfill his or her obligation to inspect the records or pay the deposit or final payment for the requested copies within 30 days, the Public Records Officer will close the request and indicate in writing to the requestor that the Port has closed the request.

J. Exemptions.

1. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the Port for inspection and copying:

a. Privileged communications and attorney work product, RCW 5.60.

b. Municipal business and occupation tax – local ordinance can protect return or tax information, RCW 35.102.145

- c. Alternative public works - trade secrets or other proprietary information submitted by bidder in connection with an alternative public works transaction if data identified and reasons stated in writing, RCW 39.10.470(2)
- d. Alternative public works – proposals submitted by design-build finalists until notification of highest scoring finalist is made, RCW 39.10.470(3)
- e. Municipal officer disclosure of confidential information prohibited, RCW 42.23.070(4)
- f. Local government insurance/risk management liability reserve funds established to settle claims, RCW 48.62.101
- g. Disclosure of tax information, RCW 82.32.330

The above list is for informational purposes only and is not intended to cover all possible exemptions from the Public Records Act. The above list only includes common exemptions for Port Records that are in addition to those specifically set forth in RCW 42.56.

2. The Port is prohibited by statute from disclosing lists of individuals for commercial purposes and will require each requestor to verify in writing that the information provided by the Port will not be used for commercial purposes.

K. Review of Denials of Public Record Requests.

Any person who objects to the initial denial or partial denial of a records request must petition in writing (including email) to the Public Records Officer 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 and must specify which portion(s) of the decision should be reviewed. An explanation of the requestor's reason for disagreeing with the decision may be included

in the petition. The Public Records Officer shall review the petition with the General Counsel for the Port or his/her designee and shall either affirm or reverse the denial within two (2) business days following the receipt of the petition, or within such other time as the Port and the requestor mutually agree. The decision of the Public Records Officer on the petition constitutes the final action of the Port.

References: RCW 42.56 Public Records Act

WAC 44-14 Public Records Act-Model Rules

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Scott D. Keller, Executive Director