

## CHAPTER 12 – PROJECT RECORDS

The Project Manager (PM) will develop or receive many documents and records while administering a construction Project. The documents and records include those that are needed to justify that the Work has been completed according to Contract requirements and that payment has been properly made.

For the purposes of this manual, “Project Records” is defined as:

All information in any way relating to the Project or performance of the Contract, including but not limited to all:

- Financial and accounting records and information
- Correspondence – including internal communications, emails, field notes, file notes, diary entries, communications with Agency, Subcontractors and authorities
- Notices, orders, permits, opinions
- Survey data – including survey drawings, reports, maps, original computations and other data
- Materials testing records and Materials certifications
- Work products
- All other documents and information whether generated by or for, or received by the Agency in the performance of the Contract, and whether any of such records are:
  - Paper-based
  - In the form of electronic data
  - In electronic/digital format capable of being reduced to paper-based or electronic/digital format
  - In audio format, or
  - Constitute visual reproductions such as photos or videotape

At any time during the life of the Project, the Project Records may be reviewed or audited by a number of parties, including:

- Construction Section personnel
- ODOT’s Internal Audit and Review group
- Federal Highway Administration (FHWA)
- Region personnel
- Representatives of Department of Justice or attorneys for a Contractor
- Any other group performing an audit
- A person reviewing records under the Public Records Law

The Project Records:

- Provide documented evidence that the Project was built with Materials that were in conformance with Contract requirements;
- Provide documented evidence that the Contractor has been appropriately compensated for the Work completed;
- Record events and happenings on the Project or that involved the Project; and
- Justify that Project costs are properly reimbursable with Federal or other funds

The Project Records must be maintained in such a manner that anyone can review the documentation and clearly understand how the Project progressed, what Materials were incorporated into the Project, and how much Work was performed on the Project.

## **12-1 ORGANIZATION OF PROJECT RECORDS**

For each Project, the PM and the Project staff must become familiar with conditions pertaining to all Pay Items and quality requirements, which are included in the Project Plans and Specifications. They also must establish methods to determine quantities, to assure proper quality, and to organize the Project records.

The Project Records associated with an Agency construction Project must be organized, kept current, and filed in a manner that makes documents easy to find. Contact the Region Assurance Specialist (RAS) or the Contract Administration Unit (CAU) for further guidance.

An efficient means of organizing and tracking the Project quality and quantity documentation is to use binders and notebooks that are divided by bid item or Pay Item. As the appropriate quality documentation is received, enter the information into the Test Summaries and place the documents in the quality notebook. [*Refer to Chapter 12B – Quality*] As the quantity documentation is received, check the calculations, enter the payment information into the Contract Payments System (CPS), and place the documents in the quantity notebooks.

Contact the RAS or the CAU for support or guidance in setting up project files. The RAS will periodically review the Project documentation for compliance with the Contract requirements during the life of the Project.

## **12-2 PUBLIC RECORDS AND DISCLOSURE**

Project Records are generally classed as public records, under Oregon’s Public Records Law and as defined in ORS 192.005(5), and are available to be reviewed by the Contractor, attorneys, and anyone else who may now, or later, have an interest in the Project.

Certain Project Records are exempt from disclosure and should not be made available to persons other than Agency employees. Two (2) types of Project Records that are generally exempt from disclosure are:

- Records pertaining to litigation when a complaint has been filed or is likely to be filed, and
- Communications of an advisory nature within or between public bodies, with other than purely factual material that is preliminary to final Agency action.

As defined in ORS 192.501 to 192.515, public records that are exempt from disclosure include, but are not limited to:

- Home address \*
- Date of birth \*
- Telephone number \*
- Social Security number
- Signature
- Trade secrets
- Information relating to the appraisal of a real estate prior to its acquisition

If exempt information is contained in a record that has been requested, such as on a certified payroll, the record must be copied, the exempt information blacked out, and the record recopied before it is released. This is done to ensure that none of the exempt information is visible.

*\* Per ORS 192.502, this information **may** be disclosed if the requestor can show that the public interest requires its disclosure. The person requesting the information has the burden of showing that public disclosure would not constitute a reasonable invasion of privacy.*

For Project Records pertaining to litigation or potential litigation, contact the Contract Administration Engineer (CAE). If you have a question about whether a specific document is exempt from public disclosure, contact the CAE. Do not provide any exempt records to persons other than Agency employees without the authorization of the CAE.

When a non-ODOT employee is allowed to examine any Project Records, safeguard the records from theft, damage, or destruction, and record the event in a diary or memorandum. Include the date, place, persons present, and a listing of the records examined.

The ODOT Records Manual specifies the procedure for providing access to or copies of public records and the charges for doing that. The manual is available on the ODOT Records Management website at:

<http://intranet.odot.state.or.us/ssb/bss/rmds/records.htm>

The ODOT Records Officer has also developed a “Helpful Hints” document for responding to public records requests ([See Exhibit 12\(A\)](#)), which is also posted on the Records Management website.

### **12-3            RETENTION OF PROJECT RECORDS**

The CAU is responsible for storage of the Project documentation that is required to be submitted to the Construction Section at the completion of a Project. [*Refer to Chapter 37 - Submittal of Final Project Documentation*]

The submitted quality, quantity, and labor compliance documentation is combined with the Construction Section files and, along with all other Project Records, is submitted to the State Archives to be archived for the applicable retention period. The records retention period is defined in the Special Records Retention Schedules for program and administrative records which are unique to ODOT.

For more information on the ODOT records retention schedule, contact the CAU, and visit the Oregon State Archives record management special schedule at:

[http://bluebook.state.or.us/state/executive/Transportation\\_Dept/transportationsched.htm](http://bluebook.state.or.us/state/executive/Transportation_Dept/transportationsched.htm)

The PM and Region Manager must retain all Project Records not submitted to the Construction Section for the retention period identified in the Special Records Retention Schedule.

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**Helpful Hints for Responding to Public Records Requests**

**It is important that public records requests be responded to in a timely manner and demonstrate that ODOT has acted diligently, competently and in good faith.**

- A. On receiving a records request, review the request to see if it is ambiguous, overly broad or misdirected. If so, contact the requester for clarification. Also, clarify whether the requester merely wants to inspect the records or actually wants copies of the records. A brief conversation with a requester can save considerable time and expense in responding to records requests.
- B. If litigation has been filed, or you anticipate that it will be filed, ALWAYS work through the trial attorney. Do not disclose anything without the DOJ Trial attorney's approval.
- C. To find out if a tort claim has been filed, contact ODOT Risk Management (503-378-5032). When a Tort Claim Notice has been filed, but there has not yet been litigation filed, contact DAS Risk Management Division (503-373-7475), and get their input on disclosure. Normally, they will let ODOT decide, but occasionally they will want to handle the request, particularly when the likelihood of litigation is high.
- D. After determining exactly which records are being requested, estimate the time and expense required to provide the records. These charges are for external requests only and not for our regular business transactions and communications.
  - a. Respond to the requester within ten days of receipt acknowledging receipt of the request and give the requester an estimate of how much time you need before the records may be inspected or copies of the records be given and the location where the information will be available.
  - b. When the estimate exceeds \$25, the requester must confirm their desire for you to proceed with the request. For particularly expensive requests, consider requiring reimbursement in advance of working on a request.
  - c. Rules say that any request that costs more than \$13.00, or ones that take more than 15 minutes, will be charged to the requester of the documents.
  - d. The charges start on the 16th minute. Example: If you can read the request, find the material, copy the material, and get the material to the requester (at no cost to the Department) in less than 16 minutes, then you can make the maximum 52 8-1/2" by 11" single sided copies before exceeding the \$13.00. Do not presume that you are the only person in ODOT that has been contacted. Ask the requester. At this stage, you may receive a request for a fee waiver.

**Due to dedicated funding sources, ODOT may not waive its fees for  
furnishing public records**

[39 Op Atty Gen 61 (July 20, 1978); Manual at 14]

Questions: Darlene Hobson – Records & Policy Analyst – 503-986-3277  
[http://intranet.odot.state.or.us/ssb/bss/rmds/records\\_hints.pdf](http://intranet.odot.state.or.us/ssb/bss/rmds/records_hints.pdf)

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- E. Gather the information that would be responsive to the request. Review the documents and determine if there is any concern with disclosure of any of the information (see ORS 192). Often ODOT accident investigation records will be exempt, for several reasons. For fatalities, the head of DOJ Trial Division sends out an email that will enwrap the investigation as attorney work product. If there is any concern over any of the documents or statements in them, please contact ODOT's Records Officer (503-986-3277) for guidance. ODOT Risk Management is another resource to review documents for any issues of concern (503-378-5032).
  - F. Consider whether any exemptions apply to the requested records and whether ODOT might want to disclose the record despite the availability of an exemption. If any 'conditional' exemptions apply, remember to consider whether the public interest in disclosure outweighs the interest in nondisclosure. You may delay the release of records to consult with legal counsel about exemptions.
  - G. If no exemptions apply to the requested records, coordinate release of the records to the requester in as timely a manner as possible.
  - H. If one or more exemptions apply to the requested record, and ODOT plans to claim the exemption(s), review the record to determine whether the entire record or only specific portions of the record are exempt. If only portions of the record are exempt, delete or obscure the exempt portions and disclose the remaining portions of the record.
  - I. When denying a public records request, cite the specific exemption(s) on which you rely.
- ODOT's Public Records Request Form:  
<http://www.odot.state.or.us/forms/odot/admin731/0489.pdf>.
  - ODOT's Records Manual  
[http://intranet.odot.state.or.us/ssb/bss/rmds/Records\\_Manual.pdf](http://intranet.odot.state.or.us/ssb/bss/rmds/Records_Manual.pdf)

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**Public Records Request Requirements and Fees (effective 1-24-06)**

All information in the custody of the Director of the Oregon Department of Transportation (Department) will be disclosed or protected from disclosure in accordance with Chapter 192 of the Oregon Revised Statutes.

- (1) As used in this rule, the following definitions apply:
  - (a) "Non-Standard" means
    - (A) Audio tapes;
    - (B) Video Tapes;
    - (C) Microfilm, and
    - (D) Machine readable formats such as computer hard drives, and magnetic tape.
  - (b) "Certified copies" means, photocopies, that on the date copied, are true and accurate copy of the original record. The Department cannot certify as to any subsequent changes or manipulation of the record.
  - (c) "Research" means the compilation of information:
    - (A) That is not readily and immediately available from a single source or a group of related sources; or
    - (B) That requires a search to locate the requested information.
- (2) A request for photocopies, facsimile (fax) copies, electronically distributed (email) copies and certifications of public records that are on file with the Department can be made verbally, in writing, by fax or by email.
  - (a) The request must:
    - (b) Include name and address of the person requesting the public record;
    - (c) Include telephone number of the person requesting the public record; and
    - (d) Adequately describe the record(s) requested including subject matter, approximate creation date(s) and name(s) of person(s) involved in creation.
- (3) The request should:
  - (a) Be dated;
  - (b) Be signed by the person requesting the public record; and
  - (c) Indicate a date by which the records are being requested.
- (4) The Department will respond to the request in a reasonable amount of time and acknowledge the request, identify an estimate of the expected cost of meeting the request, and the expected date and location at which the information will be provided. The regular discharge of duties of the Department will be neither interrupted nor interfered with because of time or effort required to respond to the request.
- (5) Unless otherwise provided by statute or other administrative rule, the fees will be calculated as follows:
- (6) \$0.25 per page for photocopies.
- (7) The cost of records transmitted by fax is \$5.00 for the first page and \$1.00 for each additional page, limited to a 20-page maximum, not including the cover page.
- (8) Actual cost for use of material and equipment for producing copies of non-standard records.
- (9) Upon request, copies of public records may also be provided on a 3.5-inch computer disk or compact disk (CD) if the document(s) are stored in the Department's computer system. Disks will be provided at a cost of \$5.00 per disk and may contain as much information as the disk will hold. Due to the threat of computer viruses, the department will not permit requesters to provide disks for electronic reproduction of computer records.
- (10) Labor charges that include researching, locating, compiling, editing or otherwise processing information and records:
  - (a) No charge for the first 15 minutes of staff time.
  - (b) Beginning with the 16th minute, the charge per total request is \$25.00 per hour or \$6.25 per quarter-hour. A prorated fee is not available for less than a quarter-hour.
- (11) The actual cost for delivery of records such as postage and courier fees.
- (12) \$5.00 for each true copy certification.
- (13) Electronic Records. Copies of requested electronic records may be provided in the format or manner maintained by the Department. The Department will perform all downloading, reproducing, formatting and manipulating of records.
- (14) The Department may charge a fee for the cost of time spent by an attorney in reviewing the public records, redacting material from the public records or segregating the public records into exempt and nonexempt records. Records request fees will include actual attorney fees charged to the Department related to the request. The Department will not charge a fee greater than \$25.00 under this section unless the Department first provides the requester with a written notification of the estimated amount of the fee and the requester confirms that the requester wants the Department to proceed with making the public record available.
- (15) Pre-payment may be requested by the Department prior to record(s) being provided.
- (16) Provisions in this rule do not apply to records available through the Driver and Motor Vehicle Services Division of the Department of Transportation listed in Oregon Administrative Rule Chapter 735.
- (17) A person who believes that there has been an unreasonable denial of a fee waiver or fee reduction may petition the Attorney General or the district attorney in the same manner as a person petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The Attorney General, the district attorney and the court have the same authority in instances when a fee waiver or reduction is denied as it has when inspection of a public record is denied.

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