



**EXECUTIVE ORDER NO. 18-05**

**PUBLIC RECORDS**

WHEREAS, upon assuming the Office of Governor in February 2015, I offered a package of bills to the Legislative Assembly relating to ethics and governmental accountability. A key component of that package was Senate Bill 9, which mandated that an audit be conducted of state agencies' responses to public records requests with respect to issues of cost, timeliness and procedures. The Legislature approved Senate Bill 9 and I signed it into law on June 15, 2015.

WHEREAS, the Secretary of State's Audits Division conducted the audit required by Senate Bill 9, and in November 2015, released the audit results in a document entitled "State Agencies Respond Well to Routine Public Records Requests, but Struggle with Complex Requests and Emerging Technologies." (The audit and the audit results are hereinafter referred to collectively as the "Audit.") The Audit examined a sampling of large, medium and small agencies and found that for the most part Oregon state agencies handle routine requests well and struggle with complex requests.

WHEREAS, the Audit also revealed other issues that affect agencies' ability to respond to requests such as retention policies, changing technologies and fee structures.

WHEREAS, on January 26, 2016, I signed Executive Order No. 16-06, ordering the Oregon Department of Administrative Services ("DAS") to implement all recommendations outlined in the Audit.

WHEREAS, in March 2016, my Office partnered with DAS to establish the Public Records Requests and Management Project ("Project") to effect the executive order and ultimately increase public access and state government transparency throughout state agencies.



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WHEREAS, over the course of the past two years, the Project achieved the following outcomes:

- Developed a statewide public records management model policy, adopted by all executive branch agencies, and achieved 100% Executive Branch compliance by November 2016;
- Issued a Request for Information (RFI) regarding electronic records management and document management products in December 2016;
- Drafted a Statewide Standardized Fee-Structure, adopted by DAS as a statewide policy in February 2017. The Fee-Structure includes a standard fee schedule, a reduced fee schedule, a criteria for evaluating fee waiver requests, and guidance for agencies on communications with requesters regarding requests and fees; and
- Created the Roadmap for the Future of Public Records Management in Oregon, which includes strategies to 1) quantify and manage public records throughout the state; 2) improve responses to public records requests and track both requests and responses; and 3) use technologies to streamline all aspects of public record management and requests.

WHEREAS, simultaneously, the 2017 Oregon Legislature and I passed the most significant public records reform since the public records law passed in 1973.

WHEREAS, Senate Bill 481, introduced by Attorney General Ellen Rosenblum and arising from the Attorney General's Public Records Task Force, addressed the audit's recommendations to 1) set deadlines for turnaround times to acknowledge and respond to public records requests and 2) take into consideration the results of the Attorney General's Public Records Task Force.

WHEREAS, House Bill 2101, introduced by Representative John Huffman, tackled the content of the many exemptions from disclosure, both existing exemptions (with the Legislative Counsel Committee subcommittee and Oregon Sunshine Committee's review) and future contemplated exemptions (with the Open Government Impact Statement), which will ultimately help requesters access more information faster.



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WHEREAS, Senate Bill 106, which I introduced, created the Office of the Public Records Advocate to educate public bodies and requesters on topics related to public records and to assist in amicably resolving disputes between state agencies and requesters, satisfying the Audit's recommendation to create a third party to review disputes over non-routine requests.

WHEREAS, Senate Bill 106 also established the Public Records Advisory Council to review public records practices and procedures and to make recommendations to the Governor and to the Legislative Assembly.

WHEREAS, the Public Records Advisory Council is a mix of government, media and public members representing varying perspectives on public records, and is uniquely suited to take up the remaining tasks contemplated by the Project.

WHEREAS, the Public Records Advisory Council may consider:

1. Next steps for the proposed Statewide Standardized Fee-Structure created by the Project;
2. Updating records management systems and technologies for state agency records;
3. Developing a mechanism to track requests, responses, and performance metrics, information that may then be used to identify frequently requested records that may be proactively made available.

WHEREAS, I have implemented many changes to improve transparency within my own office, including publicly posting all public records requests and all responses to those requests; hiring a staff attorney primarily devoted to public records requests and government accountability issues; and proactively posting online my weekly calendar and my employees' Conflict of Interest forms as they come in.

WHEREAS, I believe there is always more work to be done to create a more open, accessible, and accountable government; the Legislature and I created the Public Records Advisory Council precisely to take up this important work.



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WHEREAS, I will continue engaging with all of the work being done statewide to improve government transparency and accountability in Oregon.

**NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:**

Executive Order No. 16-06 issued on January 26, 2016 has fulfilled its purpose and is declared concluded and rescinded.

Done at Salem, Oregon, this 30<sup>th</sup> day of April, 2018.



A handwritten signature in black ink that reads "Kate Brown".

Kate Brown  
GOVERNOR

ATTEST:

A handwritten signature in green ink that reads "Dennis Richardson".

Dennis Richardson  
SECRETARY OF STATE