



<u>POLICY NAME:</u>	Public Records Request	Number:	404.100.001
<u>DIVISION:</u>	Administration	Effective Date:	03/01/2024
<u>RESPONSIBLE SECTION:</u>	Administration		
<u>APPROVED:</u>	Executive Team	Approval Date:	02/13/2024

PURPOSE:

The Oregon Public Defense Commission (OPDC) is committed to accountability and transparency in the management of public record requests. Pursuant to Oregon’s Public Record Law (ORS 192.311-192.431) the public has the right to inspect a copy of a public record that is not protected from disclosure. However, OPDC can only produce records that it prepares, owns, uses, or retains. If you are seeking records from a specific public defense office or contractor, please contact them directly. 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.

AUTHORITY: (ORS 192.311 – ORS 192.431)

APPLICABILITY:

Public records requests for OPDC, 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 Department of Administrative Services (DAS) policies and procedures. This policy does not apply to public defense clients and authorized attorneys. Those persons are entitled to agency records regarding their cases without a fee.

POLICY:

The Oregon Public Defense Commission (OPDC) may charge a fee for the cost of fulfilling a public records request when the cost to fulfill the request exceeds \$25. If the cost exceeds \$25, OPDC will provide the requester with a cost estimate and will not proceed with fulfilling the request until the agency receives written confirmation from the requester that the agency should proceed with the request. OPDC may require payment in advance. Fees to fulfill public records requests may be waived or reduced if doing so is in the public interest.

Regardless of the level of public interest, a requester must have the ability to meaningfully disseminate the information for a request to qualify as being in the public interest. The determination of whether a fee is waived or reduced will be assessed using the criteria on the OPDC website. The Public Interest Threshold Evaluation Form is located under General and Public Records on the OPDC website. <https://www.oregon.gov/opds/general/Pages/public-records.aspx>

Public records shall be made available as soon as practicable and without unreasonable delay, in accordance with the timelines and conditions outlined in ORS 192.324 and ORS 192.329.

Agency shall

- Acknowledge requests within five calendar days of receipt
- Complete requests or provide an estimated date of completion within 15 business days of receipt
- Complete most requests within 30 calendar days of receipt

The first 30 minutes of staff time shall be waived for a public records request. You may be required to cover the cost to complete a records request that requires additional staff time to fulfill. Costs may also include locating, photocopying, reviewing, redacting, making available for inspection, and mailing or emailing the requested documents. Standard fees are \$0.25/page for photocopies and \$5.00/record for certification of a public record. **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.

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 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.

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

- **\$25/hour for Clerical** (administrative, office specialist, other support staff)
- **\$40/hour for Managerial** (Program managers, PIOs)
- **\$75/hour for Professional** (IT, HR, High-level Analyst)

General counsel, DOJ, special attorney, or other applicable legal fees: at the actual hourly rate charged for Public Records Request-related services. Fees subject to statutory limitations described in ORS 192.324.

OPDC shall post this policy on its website, along with information on where to submit requests. All requests shall be in writing. Case specific records are often confidential and exempt from disclosure. Public defense clients and authorized public defense attorneys may access case specific records outside of the public records process.

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)

Approved by: Executive Team
Prepared by: Policy Division
Reviewed by: Executive Team

Publish: Internally & Externally