




OREGON STATE MARINE BOARD

Title: Public Record Requests	Number: OSMB 11-1010
Effective: Upon Signature	Initial: 01/05/2011 Revision: 09/18/2017; 4/10/2019 07/24/2019, 8/22/2019, 2/19/2020
Applicability: All employees	
Reference: OAR 250-001-0020; OAR 107-001-0030; ORS 192.410 to 192.505	
Approval: 	Date: 02/19/2020

I. POLICY

Oregon's Public Records Law provides that every person has a right to inspect any public records of a public body, except records that are exempt from disclosure.

II. PURPOSE

Public records, except those exempt from disclosure, will be made available upon request for review and copies will be provided at a fee reasonably calculated.

III. IMPLEMENTATION

Making a Public Records Request

1. A request for public records that are in the custody of Oregon State Marine Board (OSMB) may be made by submitting a written request to:
Jennifer Cooper, Executive Assistant
Oregon State Marine Board - Office of the Director
435 Commercial Street NE #400
Salem OR 97301
Telephone: (503) 378-2617
Fax: (503) 378-4597
jennifer.cooper@oregon.gov
2. The request may be submitted in person, by mail, fax or by e-mail. The request must include:
 - a) The name and address of the person requesting the public record;
 - b) The telephone number or other contact information of the person requesting the public record;
 - c) A sufficiently detailed description of the record(s) requested to allow OSMB to search for and identify responsive records; and the
 - d) Date and signature of the person requesting the public record.
3. If the scope of the request is unusual or unclear, prior to response, OSMB may request additional clarification before responding to the public records request.

Acknowledgement of Receipt of Request

OSMB will respond to public records requests without unreasonable delay, that:

- a) OSMB does not possess and is not the custodian of the requested public record;
- b) Copies of all requested public records for which OSMB does not claim an exemption from disclosure under ORS 192.410 to 192.505;
- c) A statement that OSMB is the custodian of at least some of the requested public records, an estimate of time in which copies will be provided or be made available for inspection and an estimate of the fees the requester must pay as a condition of receiving the records;
- d) A statement that OSMB is uncertain whether it possesses any of the requested records and that we will search for the requested records and respond as soon as practicable; or
- e) A statement that state or federal law prohibits acknowledgement whether the record exists and a citation to the relevant state or federal law.

Tracking Public Record Requests

The agency will process, manage and respond to all official agency requests for public records as soon as practicable and without unreasonable delay according to timelines outlined in ORS 192.324 and ORS 192.329, and as recorded within this policy. The agency will track receipt and fulfillment requests.

Charging for Public Records Requests

1. The Oregon Public Records Law allows agencies to recover their actual costs in fulfilling a public records request including actual costs for supplies, research, compilation, postage/shipping and staff time, as defined in Exhibit A. OSMB will request payment prior to fulfilling a public records request to ensure that costs are properly reimbursed.
2. If the estimated fee is *greater than \$25.00*, OSMB will provide the requester with a written notice of the initial cost-estimate. In such instances, the public records request will not be fulfilled until the requester *confirms in writing* that the requester wants to proceed with the request.
3. OSMB will work with the requester to refine the scope of their request or otherwise reduce out-of-pocket cost when the initial cost estimate is greater than \$250.00

Fee Structure

Standard fees for Public Record Requests as outlined in OAR 250-001-0020, are:

- a) Per page fees reflect current Oregon Department of Administrative Services policy;
- b) Electronic record files \$165.00;
- c) \$5.00 for each true notarized certification;
- d) Other applicable fees: actual costs or best estimate of costs;
- e) Miscellaneous fees may include archive retrieval costs, costs of software companies/contracts; other third party costs;
- f) No charge for the first 30 minutes of staff time for processing request. See Exhibit B.
- g) The hourly rate charged for additional staff time is based on the level of skill or expertise required to complete the work performed not the employee-level of the individual actually fulfilling the request.
- h) Clerical labor charges are \$25.00 per hour; Managerial labor charges are \$40 per hour; Professional (IT, HR, high-level Analyst \$75.00 per hour; and 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 limitation described in ORS 192.440(4)(b).

Fee Waivers

OSMB may furnish copies of public information without charge or at a reduced fee if OSMB determines that the waiver or reduction of fees is in the public interest because providing access primarily benefits the general public under ORS 192.440(5).

The person requesting the public records must submit a written request for a 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 circumstance at the time of the request.

The agency will consider the criteria outlined in Exhibit C and Exhibit D to determine whether to waive or reduce the costs associated with fulfilling a public records request.

IV. CONSEQUENCES

Any employee found to have engaged in violation of this policy, will be counseled, or depending on the severity of the behavior, may be subject to discipline, up to and including dismissal.

Exhibit A: Statewide Standardized Fee – Structure Process Document

Process

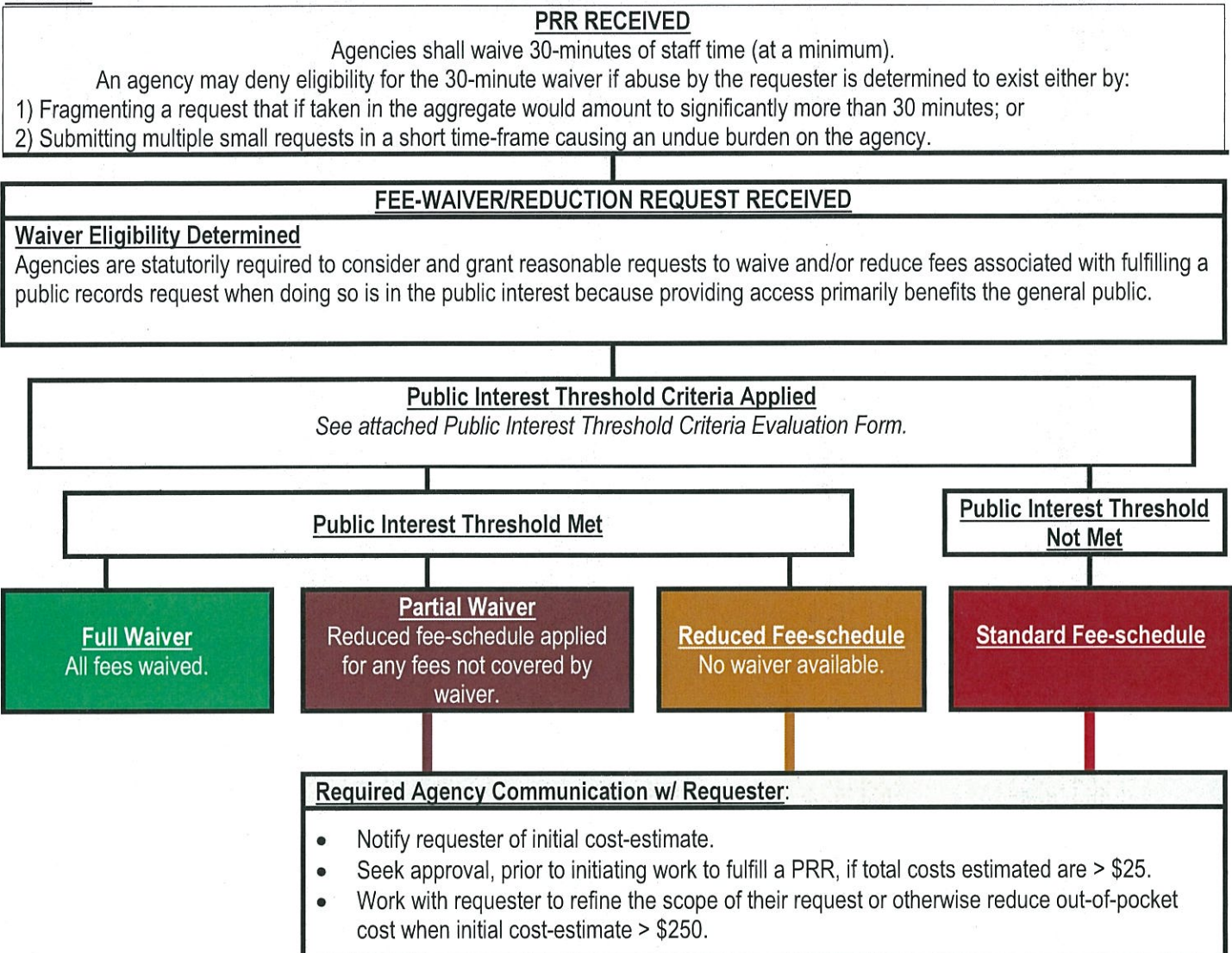


Exhibit B: Statewide Standardized Fee-Schedule

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 requester 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 PRR 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 PRR-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 requester 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 requester 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 Requester: _____

Records Requested: _____

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

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.

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 requester 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 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

HOW TO USE THIS FORM:

The Oregon State Marine Board (Marine Board) has fee waiver provisions for people including members of the news media, non-profit organizations and federal, state and local governments. The state public records law [ORS 192.440 (4) and (5)] says an agency may waive fees for information provided in response to public record requests if the fee reduction is in the public interest because making the record available primarily benefits the general public.

The fee waiver applies to Marine Board staff time only and does not apply to services provided by outside vendors. The Marine Board will bill requesters using the reduced fee-schedule for any costs above the waived amount, if costs are not waived in full.

Even if an organization has a fee waiver or is a government entity, the Marine Board may still charge for either record review or copying based on the following factors:

1. Any financial hardship on the Marine Board;
2. The extent of time, expense and interference with the Marine Board's regular business;
3. The volume of the records requested;
4. The necessity to segregate exempt from non-exempt materials; or
5. The extent to which the record request does not further the public interest or the particular needs of the requester.

The Marine Board will, however, work with requesting parties to reduce costs by narrowing requests to only the information they really want. Arrangements may also be made to provide records review at an office location where the records are maintained rather than copying and emailing or mailing records.

The Marine Board requires that a requesting party fill out this form completely and submit to:

Jennifer Cooper, Executive Assistant
Oregon State Marine Board - Office of the Director
435 Commercial Street NE #400
PO Box 14145, Salem OR 97309-5065
Telephone: (503) 378-2617
Fax: (503) 378-4597
jennifer.cooper@oregon.gov

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 current request/evaluation.

