



## ADMINISTRATIVE PROCEDURES

<b>TITLE:</b> Public Records Requests		<b>PROCEDURE #:</b> 213-A	
<b>DEPT:</b> Board of Commissioners		<b>DIVISION:</b>	
<b>EFFECTIVE DATE:</b> 02/18	<b>REVIEWED:</b>	<b>REVISED:</b>	

**OBJECTIVE:** To establish a county-wide procedure for responding to public records requests.

**REFERENCE:** Policy #213

**POLICY STATEMENT:** Oregon’s Inspection of Public Records Law (ORS 192.311 to 192.478) provides members of the public the right to inspect and copy public records that are not otherwise exempt from disclosure. This procedure establishes a consistent approach to handling public records requests, guides Marion County employees on the processing of public records requests, and informs the public of the standards that apply to public records requests. It is the policy of Marion County to ensure that all requests for public records are handled promptly and in conformance with Oregon public records laws.

**APPLICABILITY:** All Marion County departments.

**DEFINITIONS:**

Business Day: A day other than Saturday, Sunday, or a legal holiday and on which at least one paid employee of the County is scheduled to and does report to work.

Impracticable: For the purposes of this policy and complying with the timelines established in this policy and ORS 192.324 and 192.329, compliance may be deemed impracticable because: (1) The staff or volunteers necessary to complete a response to a public records request are unavailable; (2) Compliance with the timelines would demonstrably impede the county’s ability to perform other necessary services; or (3) Because of the volume of public records requests being simultaneously processed by the county.

Public records officer: An individual who is identified in accordance with this policy to whom public records requests may be sent.

Public records request: A written request, a by a person or organization, to be provided access or copies of identified public records. A public records request does not include simple, routine requests for readily available records that may be handled immediately.

Record: Any writing containing information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics. ORS 192.410(4)(a). A record may be

handwritten, typed, photocopied, printed, microfilmed, or exist in an electronic form such as email or a word processing document, or other types of electronic recordings. A record is a public record if it contains information relating to the conduct of Marion County business and is prepared, owned, used or retained by the county.

**PROCEDURES:****Public Records Requests:**

Written public records requests shall be responded to without unreasonable delay and in accordance with Oregon law and Administrative Policy 213. Public records identified in a request shall be disclosed unless the records are confidential, privileged, or subject to an exemption. Marion County is not required to create a record in order to respond to a public records request.

All public records requests must identify the public records requested. Public records requests should be submitted in writing to the appropriate department public records officer. The public records officers to whom public records requests may be submitted are identified in Attachment A.

**1. Initial Processing of the Request:**

- 1.1 The public records officer who receives a written public records request shall conduct an initial assessment.
  - 1.1.1 Simple routine requests for readily available documents may be handled immediately. In some cases, the requester may be referred to the county website or other resources where records are readily available.
  - 1.1.2 Except for routine requests that have been addressed immediately, the public records officer shall make a preliminary determination as to whether the records are held and if possible, whether all or a portion of the contents may be subject to exemption. The public records officer may need to consult with their supervisor or legal counsel.
  - 1.1.3 If the records relate to pending claims or litigation the public records officer shall consult with a supervisor and legal counsel shall be notified.
- 1.2 The public records officer shall promptly determine if the requested records are in the department's custody.
- 1.3 The public records officer should consider whether additional information or clarification is needed from the requester in order to effectively process the request.

**2. Acknowledging the Request:**

- 2.1 Unless impracticable, the public records officer shall acknowledge receipt of the written request to inspect or receive a copy of a public record within five business days after receiving the request. The written acknowledgement shall:
  - 2.1.1 Inform the requester that the department is not the custodian of the requested record(s); or
  - 2.1.2 Notify the requester that the department is uncertain whether it is the custodian of the requested record(s); or

- 2.1.3 Confirm that the department is the custodian of some or all of the requested record(s); or
- 2.1.4 Note that the request is unclear, ambiguous or lacks specificity and requesting additional clarification.
- 2.2 If the department is custodian of at least some of the request records, and if the public records officer has obtained sufficient information, then the public records officer may provide an estimate of the fees that the requester must pay prior to receiving the requested records as part of the written acknowledgement.
- 2.3 A written acknowledgement is not required if the public records request is completed within five business days.

### **3. Responding to the Public Records Request**

- 3.1 In order to more appropriately respond to the request, a public records officer may request additional information or clarification from the requester. Requests for additional information or clarification must be made in a good faith attempt to expedite the request.
  - 3.1.1 Common examples of additional information necessary to clarify a request are: date ranges for the request, explanation of ambiguous terms, inquire if a request for large volume of records might be limited, or clarification about the program or division responsible for the records being sought.
- 3.2 The obligation to further complete the request is suspended until the requester provides the clarifying information.
- 3.3 The public records officer shall consider whether any of the requested records are exempt from disclosure. The public records officer may need to consult with their supervisor or legal counsel about the applicability of exemption.
- 3.4 If the department has custody of requested records and no exemption will be asserted, the public records officer shall establish an estimate of the fee to reimburse the county for the cost of providing the records.
  - 3.4.1 The estimate must reasonably calculate actual costs anticipated to make records available;
  - 3.4.2 The costs may include anticipated charges for the time spent by staff to locate the requested public records, to review the records in order to determine if an exemption applies, to segregate exempt records, to supervise the requester's inspection of original documents, to copy records, and mailing costs.
  - 3.4.3 The estimate may include charges for photocopies of requested records.
  - 3.4.4 The fees must be consistent with the county policy and departmental procedure, if any.
- 3.5 If the estimated fee is greater than \$25, the department must provide the requester with written notice of the estimated amount of the fee prior to fulfilling the records request. The department will not fulfill the request until the requester makes a deposit in the amount of the estimated fee.
- 3.6 For requests where the fee will be significantly less than \$25, the department may waive the requirement of pre-payment of an estimated fee before performing work to make the records available.

- 3.7 If the department will require advance payment of the estimate, the public records officer shall inform the requester in writing of the estimated fee to recoup the county's actual costs.
- 3.8 Absent unusual circumstances, the public records officer shall perform no additional work in responding to a public records request after the requester has been informed of the requirement to pay an estimated fee in advance.
- 3.9 The requester must pay the amount owing before the requested records will be made available. If the deposit exceeded the actual costs, the department will provide the records along with a refund of the difference. If the deposit is insufficient to cover the entire costs of completing the public records request, or the requester was not required to pay a deposit, the amount owing must be paid by the requester before the records will be provided.

**4. Deadline for Response:**

As soon as reasonably possible, but not later than fifteen (15) business days after a public records officer has received a written public records request, the public records officer shall complete the response to the request, or inform the requester in writing that the department is still processing the request and provide a reasonable estimated date when its response will be complete.

- 4.1 The 15 business days timeframe does not apply:
  - 4.1.1 If compliance is impracticable;
  - 4.1.2 During the time that the county waits for a requester to provide additional information or clarification requested by the public records officer; and
  - 4.1.3 For those days the county waited for a requester to pay an estimated fee for the county's anticipated cost of making the public records available.
- 4.2 The public records officer will respond to the request in one or more of the following ways:
  - 4.2.1 Providing copies of the requested record(s) when an exemption is not claimed;
  - 4.2.2 Informing the requester that the department does not have custody of the requested public record(s);
  - 4.2.3 Providing a statement that state or federal law prohibits the department from acknowledging that the record exists and a citation to the relevant state or federal law;
  - 4.2.4 Providing a statement that the department is the custodian of some or all of responsive records but that some or all of the requested record(s) are exempt from disclosure and will not be provided, along with a citation to the exemption and a statement that the requester may seek review of the determination by appeal pursuant to ORS 192.407 to 192.431; and/or
  - 4.2.5 Providing a written statement that Marion County is still processing the request and provide reasonable estimated date by which the county expects to complete its response based on the information currently available.

**5. Closing the Records Request**

- 5.1 Marion County will close the records request upon the occurrence of one of the following:
  - 5.1.1 The records are delivered, or access is provided, to the requester;
  - 5.1.2 The requester is notified of a claim of exemption, and any appeal period has passed or the appeal is resolved.
  - 5.1.3 The requester fails to pay a fee for the records within 60 days after being informed that the fee must be paid;
  - 5.1.4 The requester fails to respond within 60 days to a request for information or clarification about the request.
- 5.2 Each Marion County department, through its public records officer(s), shall document and track public records requests that the department has received and the manner by which each request was closed.

**6. Requests to Inspect Records**

Requests to inspect public records should be processed in the same manner as outlined above. If the public record that the requester is seeking to inspect is only readable by machine or electronic form, the information shall be provided in the form requested by the requester if that form is available. If the electronic or machine readable information cannot be provided in the format requested, then the public records officer shall make the public record available in the form in which the public record is maintained by Marion County. The public records officer shall provide an estimate of the costs to inspect public records in the same manner as described above.

**7. Public Records Officers**

Each department head within Marion County is responsible for: appointing one or more Public Records Officer(s) who shall be responsible for coordinating and assisting staff in carrying out Administrative Policy 213 and this procedure. Each Public Records Officer within Marion County is responsible for ensuring timely and reliable processing of public records requests as outlined herein.

**8. Fee Waiver Requests**

Upon receiving a request for a fee waiver, a public records officer shall consult a supervisor. Fee waiver requests may only be granted by the Chief Administrative Officer (CAO) or Deputy County Administrative Officer. If a public records officer considers granting a fee waiver request, legal counsel should be consulted.

**ATTACHMENT:**

Attachment A: Marion County Public Records Officers