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Section:	900 RECORDS/PUBLIC DISCLOSURE	Revision Date:	9/2020
Policy:	PUBLIC RECORDS POLICY	Policy No.	903
Approver:	COMMISSION	Resolution	Yes

**POLICY:** Pursuant to the Washington State Public Records Act (PRA), [Chapter RCW 42.56](#), the Port of Olympia is required to make available for inspection and copying, public documents as defined by the PRA. This policy will govern the compliance of the Port with respect to the provisions of the PRA. To the extent that this policy is in any way inconsistent with the referenced RCW, the RCW will be deemed to prevail.

All public records of the Port are deemed to be available for public inspection and copying pursuant to this policy except as otherwise provided by the PRA, or other statute, which exempts or prohibits disclosure of specific information or records.

A "public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

"Writing" means handwriting, typewriting, printing, photostatting, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. The Port Commission has determined that it would be unduly burdensome to maintain an itemized index of all Port records, except as set forth herein, due to fiscal and personnel limitations.

Under no circumstances will employees of the Port work simultaneously on more than one request per requestor at a time. When the same requestor simultaneously submits multiple, separate requests or makes one or more additional requests when previous requests are open, staff will queue the request in the order in which they were received. Staff is not required to work on an additional request until the initial requests are completed and closed.

### Office Hours

Public records shall be available for inspection and copying during the customary office hours of the Port. For the purposes of this policy, the customary hours shall be from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

### Public Records Officer

The Public Records Officer for the Port shall be assigned by the Administrative Services Director. Processing requests for access to public records shall be completed by the Public Records Officer with oversight by the Administrative Services Director. The Public Records Officer can be contacted by calling the Port administrative office at 360-528-8000 or email to [publicrecords@portolympia.com](mailto:publicrecords@portolympia.com).

The Public Records Officer shall be responsible for the following: the implementation of the Port's Policy and Procedures regarding the release of public records, coordinating with other Port staff in this regard, and generally ensuring compliance by staff with the public records disclosure requirements of the Act. The public records officer is not required to personally fulfill requests for public records. A request can be fulfilled by an agency employee other than the public records officer.

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### Index of Public Records Available

1. The Port has available to all persons:
  - a. Index of all resolutions passed by the Commission
  - b. Index of minutes of the Public Meetings of the Port Commission (by each meeting's agenda)

### Request for Public Records

In accordance with requirements of the Act, public records may be inspected or copied, or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

To ensure fair notice that a request is a request for public records, all requests for records should be made in writing, which includes email. A records request form, prescribed by the Executive Director is available at the Port administrative office and on the Port's [website \(www.portolympia.com/108/Public-Records\)](http://www.portolympia.com/108/Public-Records) for requesting records. If a request is made orally, Port staff will confirm the request in writing before acting upon it.

The request shall be presented to the designated Public Records Officer. If the Public Records Officer is not available during customary office hours, the completed form(s) shall be presented to the administrative office front desk. All requests shall include the following information (See Exhibit B):

1. Contact information, such as name, address, and telephone number of the person requesting the record. If the requestor chooses to not provide the Port with any contact information, the Port will prepare a response that is consistent with these policies and procedures. If a 5-day letter is necessary, the Port shall have it ready for the requestor to collect at the Port administrative office on the fifth business day, unless the requestor provides sufficient contact information to the Port. If a 5-day letter or responsive records prepared are not picked up by the requestor within 30 days of the date of the original request, the request and all other future installments (if any) shall be considered closed.
2. A specific description of the record requested, including the title, and date.
3. The request shall identify if the request is for copies or for inspection of records.

The Port has the discretion to block any requests if it has a reasonable basis to believe that the request poses a security risk to the Port or any of its systems or equipment, such as automated "bot" requests generated by a computer program or script. The Port will not accept requests via social media and cannot ensure that it will properly recognize or even receive requests sent by means other than those identified in the Port's adopted policy and procedures.

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### **Fulfilling Requests and Seeking Clarification**

According to RCW 42.56.520, responses by the Port to requests will be made promptly within five business days from the time a request is submitted to the Public Records Officer. The Public Record Officer will a) confirm the request in a written response, as it is understood by the Public Records Officer, with an estimated time of response with records, b) seek clarification, including an estimated time of response as if no clarification is received, c) provide the records and/or electronic link with records responsive to the request, d) inform the requestor there are no responsive records to the request, or e) deny the request with a written response to the reasoning of the denial.

If the requestor does not provide sufficient clarification to the Port's request for clarification within 30-days of the original request, the request will be considered closed as to the portions of the request that is unclear. The Port will, however, respond to all portions of the request that remain clear, as restated in the 5-day response. If the requestor wishes to obtain the records thereafter, he/she will be required to submit a new request for the records.

A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under the [RCW 42.56.080](#). The Port shall not be required to create records or documents in response to a request for public records that do not exist at the time the request is made, however, may, at the Port's option, do so in order to expedite providing the requested information to the requestor.

If the Port does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the Public Records Officer to determine the reason for the failure to respond.

### **Copies and Fees**

The Port of Olympia wishes to encourage and enhance public participation by making the first copy of annual information items available to the general public at no cost (Auditor Report, Annual Budget, Marketing Brochures, etc.). Supplementary copies, however, will be charged at a rate of reproduction cost as set in the Port's Annual Proprietary Rates and Fees Resolution.

The statutory default rates are reflected in the annual Rates and Fees Resolution. The Port has determined that calculating actual costs would be unduly burdensome in accordance with RCW 42.56.120(2) (b), (c) and (e).

No fee shall be charged for the location and inspection of public records by Port staff. The Port shall charge a fee for providing copies of public records at a rate defined in the Annual Proprietary Rates and Fees Resolution. In addition, public requests for records including copies, tapes, or documents may be charged at a rate of reproduction cost and labor costs as set in the Annual Proprietary Rates and Fees Resolution. The Port will waive the fees for requests under two-dollars. Fees must be collected from the requestor PRIOR to any records being released. The requestor may ask for an estimate of the cost before asking for records to be produced.

The Port may, in its discretion, require the requestor to deposit a sum equal to ten percent of the estimated copying cost prior to duplication of the records. In the event a deposit is required, the Port will notify the requestor of the necessity of the deposit. In the event the actual copying costs are less than the amount deposited by the requestor, the Port will return the sum in excess of the actual amount to the requestor.

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The Port may impose a customized service charge if the Port determines that the records request requires the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the Port for other agency purposes. Requestor will be notified in advance of the estimated cost, along with an explanation of why the customized service charge applies and a description of the specific expertise required, so that the request may be amended to avoid or reduce cost.

Only Port employees will operate the Port's copy machine, as public use of the copy machine would unreasonably disrupt the operations of the Port. If the Port, at its sole election, determines that the copies will be made by a copy service, the actual costs charged by a copy service plus actual costs of postage, transmission and handling will be charged to the requestor. The charge shall be the amount necessary to reimburse the Port for its actual costs incident to such copying.

The Port, at its discretion, may enter into any contract, memorandum of understanding or other agreement with a requestor that provides an alternative fee arrangement to the charges authorized, in response to a voluminous or frequently occurring request, or determined undue hardship.

### **Inspection of Records**

If a requestor requests to inspect records, the Public Records Officer will inform the requestor when the records will come available and schedule a time with the requestor for inspection. The records will be made available for inspection during normal business hours of the Port. At that time, the requestor can identify records to be copied. If the request for copies is minimal, staff will make the copies at that time. If the request is for more than 20 copies of the records under review, the Port staff will have the copies made and provided to the requestor within 3-5 business days, unless otherwise notified. The Public Records Officer will notify the requestor when the copies are ready to be picked up. If the requestor does not schedule a time for inspection of the records within 30-days of the records becoming available, the request will be considered closed.

### **Protection of Public Records**

No records shall be removed from the Port office. No record may be marked, folded or damaged in any way, nor may any record be removed from any file to which it is attached, nor may the records filing order be altered in any way. A member of the Port staff will supervise inspection of records.

### **Allocation of Resources**

To provide fullest assistance to all requestors and to prevent excessive interference with other essential Port functions, the Port may allocate specific amounts of time and resources to responding to a request, whether individual or grouped, and/or to a particular requestor. This may include, but is not limited to, allocating a specific number of hours per week or month to be spent by public disclosure staff and/or by employees for whom responding to records requests is not among their primary assigned duties.

The Port's obligation to provide fullest assistance extends to all requestors. Fullest assistance does not require the Port to ignore or modify its internal business processes for responding to public records requests or to comply with aspects of a request altering the Port's internal administrative matters. Fullest assistance does not mean the Port must acquiesce to demands of one requestor if it may detrimentally affect the Port's ability to provide fullest assistance to other requestors, result in damage or disorganization of agency records, or excessively interfere with other essential Port functions.

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### **Supplemental Response and Additional Time**

The Port may need additional time to respond to a request for records. For example, additional time may be needed due to the volume of the request received, the complex nature of the request, the breadth of the request, and the need to search, locate, and assemble responsive records, notify third-persons, or agencies/contractor's affected by the request, or to determine if any portions are exempt from disclosure. In the event additional time is needed, the Port will take reasonable steps to advise the requestor of the additional time necessary and the reasons for the required extension.

### **Partial or Installment of Records**

If the Port determines that records responsive to the request are voluminous or production of the records requires significant effort to review and apply redactions, the Port may make the records available for review or copying on a partial or installment basis as the records are assembled and become available. The Port may ask the requestor to prioritize the request so that he or she receives the most important records first. If the requestor finds the records he or she is seeking at the beginning of a request, the requestor should communicate with the Port that the requested records have been provided and he or she is canceling the remainder of the request.

An installment of records that has been copied shall be made available to the requestor for an initial 30-days. This period may be extended upon agreement of the Public Records Office and the requestor in order to provide a reasonable amount of time for inspection. If copied records are provided on an installment basis, the Port may charge the requestor for those copying costs as they accrue in making each installment available. In the event a requestor fails to retrieve an installment of copied records, or to contact the Public Records Officer to arrange to review the records within 30-days, the records request will be considered closed. If the requestor wishes to obtain the records thereafter, he/she will be required to submit a new request for the records.

### **Standard Method of Delivery**

The Port regularly provides electronic records via email with a) links to archived documents on the Port website, b) directly uploaded electronic files, or c) a link to an online cloud storage system for larger batches of documents. This is the Port's primary and preferred delivery method as it is the most reasonable and cost-efficient method available to the Port operations. However, the Port will provide copies of documents for pick up, sent through USPS mail, or scanned copies of electronic records on portable media such as CD's/DVD's, or thumb drives, at the cost of the requestor, or for personal inspection free of charge.

Requestors may not attach devices or cables to Port systems or equipment. Because of the potential for introducing a threat to the security of, or otherwise damaging Port systems or equipment, the Port does not allow requestors to attach or insert their own devices or cables into any Port computer system, equipment, or USB port. Copying of records from a Port system or equipment will be done by Port staff.

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### Exemptions

The PRA allows for certain personnel and other records, or portions thereof, to be exempt from public disclosure. The Port reserves the right to determine and assert exemptions to a public record requested under provision of the PRA:

1. Pursuant to RCW 42.56.210, the Port reserves the right to redact identifying details when it makes available or publishes any public record, in cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by RCW 42.56.210. The Port need only disclose records or portions of records to the extent required by the Public Records Act. The Public Records Officer will justify such redactions in writing.
2. All denials for requests for public records must be accompanied by a written statement specifying the reason for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. An exemption log will be prepared for the requestor listing the information withheld and the statutory basis for each redaction or record withheld.
3. Some records are exempt from disclosure, in whole or part. Exceptions may be found in the Public Records Act ([Chapter 42.56 RCW](#)) and in other statutes. In determining whether particular records are exempt from disclosure, the Port looks to the list of exemptions that the Washington State Code Reviser provides to the Sunshine Committee on an annual basis; available on the Sunshine Committee website ([www.atg.wa.gov/sunshine-committee](http://www.atg.wa.gov/sunshine-committee)).

Failure of the Port to list in this policy an allowable exemption under any applicable law does not affect the efficacy of the exemption or its available use by the Port.

### Third Party Notice

In the event the requested records contain information that may affect the right of other persons of interest and/or may be exempt from disclosure, the Port may, prior to providing the records, give notice to such other persons of interests whose rights may be affected by disclosure. The notice shall include a complete copy of the public record request. Third parties shall be given a reasonable time to obtain and provide to the Port an order from the court preventing or limiting disclosure.

### Later Discovered Documents

If, after the Port has informed the requestor that it has provided responsive records, the Port becomes aware of additional responsive documents existing after the time of the request, it will promptly inform the requestor of the additional documents and provide them as soon as possible within (3) three months of the completion of the records request.

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### Commercial Lists

By law, the Port is prohibited from disclosing lists of individuals requested for commercial purposes, [RCW 42.56.070\(8\)](#). The Washington State Court of Appeals, in *SEIU Healthcare 775NW v. State* (2016), ruled that in responding to a public records request that includes a list of individuals, an agency must investigate if that list might be used for commercial purposes. The Public Records Act (PRA) authorizes agencies to require a requestor to provide information as to the purpose of a request “to establish whether inspection and copying would violate [RCW 42.56.070\(8\)](#). In order to ensure compliance with this obligation, the Port will require the requestor to complete a declaration to include the purpose of the request, identification of the requestor, the nature of the records requested and other information necessary to determine if the list of individuals may be provided under the law. If the Port does not receive a completed declaration within 30-days of the initial request, it will be unable to process the request and the request will be considered closed.

### Denial of Requests

An explanation will be provided to the requestor as to the reason the Port is unable to process the request. Any persons who objects to the denial of records or portion of the request may submit a petition in writing (including by e-mail) to the Public Records Officer for a review of that decision. The petition shall include a copy of, or reasonably identify the written statement by the Public Records Officer or designee denying the request.

### Review of Denials of Public Requests

Any person who objects to the denial of a request may petition for prompt review of such decision by tendering a written request for review by the Port’s Executive Director.

Upon receiving a written request for review, the denial of the request shall be promptly reviewed by the Administrative Services Director and the final decision of the Executive Director (or designee) shall be made in writing and delivered to the requesting party by the end of the second business day following receipt of the written request for review as set forth in RCW 42.56.210. The decision of the Executive Director (or designee) shall constitute final action of the Port for purposes of judicial review. The Executive Director shall advise the Commissioners of the Executive Director’s decision with regard to any such request. Any person may obtain court review of denials of public record requests pursuant to [RCW 42.56.550](#).

### Records Retention

Refer to Policy 901 for information on Records Retention and Storage.

### Address Where Requests are to be Directed

All communications with the Port related to records requests are to be addressed to:

Port of Olympia  
Attention: Public Records Officer  
606 Columbia Street NW, Suite 300  
Olympia, WA 98501

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Fax: (360) 528-8090

Phone: (360) 528-8000

Email: [publicrecords@portolympia.com](mailto:publicrecords@portolympia.com)

[Online Request Form](http://www.portolympia.com/108/Public-Records) [www.portolympia.com/108/Public-Records](http://www.portolympia.com/108/Public-Records)

**Forms**

The attached procedure, Exhibit "A" and the corresponding Form, Exhibit "B" are to be used for requests for access to public records at the Port of Olympia.