

POLICY AND PROCEDURES FOR ACCESSING PUBLIC RECORDS AT THE PORT OF BELLINGHAM

I. INTRODUCTION

A. Policy

It is the policy of the Port of Bellingham to abide by the spirit and intent of the Washington State Public Records Act and make available to the public any and all requested public records not exempted under Washington's Public Records Act, Chapter 42.56 Revised Code of Washington.

B. General Inquires for Information

Generally speaking, requests from the public about Port division operations or policy can be answered by Port directors or other knowledgeable staff. Media inquiries for information can be handled by the division manager or director in coordination with the Port staff person in charge of community relations.

II. PUBLIC RECORDS AND EXEMPTIONS

A. Public Record

Washington's Public Records Act (Chapter 42.56 RCW), requires that members of the public be provided access to public records held by government agencies such as the Port of Bellingham, for inspection and, if desired, copying. It does not require the Port to answer specific inquiries or to create documents in order to respond to a request. The term "public record" is defined in the Revised Code of Washington as follows:

"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. RCW 42.56.010.

"Public record" does not include records not required to be retained by the Port that are held by volunteers, such as members of Port advisory committees, who:

- Do not serve in an administrative capacity;
- Have not been appointed by the agency to an agency board, commission or internship; and
- Do not have a supervisory role or delegated agency authority.

The term “writing” is defined as:

“Writing” means handwriting, typewriting, printing, photostating, 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 pictures, 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. RCW 42.56.010.

B. Exempt Public Records

The Public Records Act provides a number of exemptions to disclosure of identifiable public records. They include, but are not limited to, the following:

1. Applications for public employment as well as the residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, and social security numbers of employees which are held in personnel records, employment rosters, or mailing lists of employees.
2. Personal information in files maintained for employees, appointees, or elected officials of the Port to the extent that disclosure would violate their right to privacy.
3. Generally, the contents of real estate appraisals, made for or by the Port relative to the acquisition or sale of property, until the projected or prospective sale is abandoned, or until such time as all of the property has been acquired or sold. But in no event will disclosure be denied for more than three (3) years after the appraisal.
4. Valuable formulae, designs, drawings, and research data obtained by the Port within five (5) years of the request for disclosure when such disclosure would produce private gain and public loss.
5. Preliminary and pre-decisional drafts, notes, recommendations and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except if that specific record is publicly cited in connection with a Port action.
6. Communications and legal advice between the Port and its legal counsel.

7. RCW 42.56.070(9) prohibits disclosure of lists of individuals (i.e., moorage lists) for commercial purposes.
8. Information regarding both public and private infrastructure and security of computer and telecommunications networks, including passwords, access codes and programs, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.
9. GPS data that would indicate the location of the residence of any public employee or volunteer using the GPS recording device.

Exemptions will typically be reviewed by Port legal counsel to ensure that any withheld documents meet the exemptions described in the Public Records Act. Any document withheld will be identified on an exemption log provided to the requester that describes the document being exempted and sets forth the exemption relied upon for withholding the record.

III. TO ACCESS A PUBLIC RECORD

A. Standardized Request Form

It is encouraged that public records requests be made utilizing the Port of Bellingham's public records request form. The standardized public records request form will be made available at the Port's Administrative Office and on the Port's website at www.portofbellingham.com. The completed form specifies what documents are being requested and should be forwarded to the Public Records Officer whose contact information is provided below. The Public Records Officer will manage the process of fulfilling the request through the appropriate divisions to ensure that responsive deadlines are met.

The Port's Administrative office is located at 1801 Roeder Avenue, Bellingham, Washington.

B. Public Records Officer (PRO)

The Public Records Officer will oversee compliance with the Public Records Act, but another Port of Bellingham staff member may process the request. Therefore, these procedures will refer to the PRO "or designee." The PRO or designee and the Port of Bellingham will provide the fullest assistance possible to requesters, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with essential functions of the Port of Bellingham.

The Public Records Officer can be reached at:

Address: 1801 Roeder Avenue, Bellingham, Washington 98225

Email: publicrecords@portofbellingham.com

Telephone number: 360-676-2500

Fax number: 360-671-6411

C. Record Availability

Public records will be made available for inspection and copying during the customary office hours of the Port of Bellingham (Monday through Friday, excluding legal holidays, 8:00 a.m. through 5:00 p.m.), subject to availability of staff and to ensure the protection of public records from damage, loss or disorganization. Records for inspection will be made available at the Port's Administrative Office.

IV. PORT OF BELLINGHAM PROCEDURES FOR RESPONDING TO REQUESTS FOR PUBLIC RECORDS

A. Response

Requests for public records will be forwarded to the PRO in the Port Administrative Office, who will review the request and ask the appropriate division staff for the records. Upon receipt of the public records request, either the requested materials or a written response will be provided to the requester within five (5) business days. If the Port requires additional time to fulfill the public records request, the requester will be so notified and will be provided with a response date. The Port is not required to answer specific inquiries or to create documents in order to respond to a request.

1. Additional Time is Needed

The Port's response may include a statement that additional information is needed to clarify the intent of the request, more time is required to locate and assemble the requested documents, to notify third persons or agencies affected by the request, or to determine whether any of the documents are exempt and/or a denial may be made to all or part of the request.

2. Procedure if Clarification is Needed

If a request is not specific, or an identifiable record cannot be ascertained from the request, the PRO may seek clarification from the requester while also providing an estimated

response time. If clarification is not received, the records request may be denied, with the reason clearly stated in writing.

3. Procedure for Notifying Third Parties

The Port of Bellingham occasionally receives exempt records, such as proprietary or sensitive business information from third parties, including prospective or current clients or tenants. There are circumstances in which the Port, within its discretion, will provide advanced notice to third parties affected by requests for records which may contain sensitive information related to the third party. The information provider (third party) may seek court protection under RCW 42.56.540 by demonstrating that such information would:

- a. clearly not be in the public interest; and,
- b. substantially and irreparably damage any person; or
- c. substantially and irreparably damage vital government functions.

The notice to the affected persons will include a copy of the request.

4. Providing Records in Installments

When the request is for a large number of records, the PRO or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If within thirty (30) days, the requestor fails to inspect the entire set of records or one or more of the installments, the PRO or designee may stop searching for the remaining records and close the request. The PRO will provide the requestor with notice that the Port will be closing the request.

5. Request Denial

If the Port determines it is denying the request, in whole or in part, a written statement of the applicable exemptions and specific reasons for the denial shall be provided to the requester. Said decision will be reviewed by the Port attorney prior to the issuance of the denial to the requester. Such review shall constitute final action for the purposes of judicial review. The requester shall be notified of the decision to grant or deny the request. (See Section V, Part A for appeal process.)

6. Overbroad Requests

A request for all or substantially all public records of the Port is not a valid request for identifiable public records and will be denied. The Port may deny a bot request that is one of multiple requests from the requestor to the Port within a 24 hour period upon establishing that responding to the requests would cause excessive interference with other essential functions

of the Port. A “bot request” is a request for public records that the Port reasonably believes was automatically generated by a computer program or script.

7. Later Discovered Documents

If additional records are discovered that should have been provided as part of an earlier public records request, those documents will be forwarded to the requester as soon as practicable with a brief explanation as to why the newly discovered documents were not located as part of the request response.

V. APPEAL PROCESS IF REQUEST IS DENIED

A. Appeal of Denial to Disclose

The requester may appeal a decision to the Port’s Public Records Committee. The appeal must be filed within fourteen (14) business days of the date of notification to. The Public Records Committee, consisting of the Executive Director, a Commissioner, and a Port attorney, will either affirm or reverse the denial within two (2) business days following the Port of Bellingham’s receipt of the appeal or within such other time as the Port and the requester mutually agree.

VI. INSPECTION AND COPYING FEES

A. Inspection of Records

No fee will be charged for inspection of Port documents. The requester will be notified when the records are ready for inspection and the requester and the Port will set a mutually agreeable time for inspection. So as to protect Port documents from damage, loss or disorganization, a Port staff person will monitor the inspection of records. The Public Records Act allows the public to inspect and request copies of documents. Reports may be run on information databases if it would not be burdensome on the Port. However, the Port is not required to reformat or write code in order to create a program to retrieve and complete specific information.

B. Copying of Records

The costs to be charged to the requester for public records are published by the Port pursuant to its Public Records Act Fee Schedule, which may be amended from time to time. This fee schedule will be made available at the Port’s Administrative Office and on the Port’s website at www.portofbellingham.com.

The public will be charged the actual costs for reproduction of records if the public has requested documents and staff workload issues necessitate sending the documents out to a reliable copy source for copying, storing, electronically producing, or transmitting records in an electronic format. The public will be charged actual costs for nonstandard copies, such as blueprints or photographs, or for storing, electronically producing, or transmitting records in an electronic format that are not capable of being produced using the Port's equipment. "Actual cost" is the cost charged to the Port by an outside vendor for reproduction of records. A deposit of ten percent (10%) upfront of the estimated copy may be charged depending upon the volume or number of copies requested.

VII. ELECTRONIC AND MULTIMEDIA DATABASE INFORMATION

A. Available Documents on Website

Many public records are available on the Port's website. The PRO may direct the requester to the Port's website to fulfill a records request. For those who do not have access to the Internet, a record viewing workstation can be provided at the Port's Administrative Office located at 1801 Roeder Avenue, Bellingham.

B. Electronic Records

The Port will take reasonable steps to translate any original document into a useable copy for the requester, such as preparing an electronic copy of a record, so long as the record is reasonably translatable into the requested format.

C. Videos and Other Multimedia

Port business may be recorded. All requests of video or other multimedia information or records shall state a date in which the event occurred as these digital files are not indexed by subject and are not word-searchable.

VIII. RECORDS RETENTION POLICY

A. State Archive Retention Schedule

The Port, to the extent practicable, strives to follow the current version of the Washington State Common Records Retention Schedule (CORE) published by the Washington State Secretary of State. However, records may be kept longer than the time detailed under the retention schedule.