



Policy and Procedures for Accessing Public Records

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1. PURPOSE

1.1. Public Records Act

The purpose of the Public Records Act is to provide the public with full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of government. The Public Records Act provides a statutory framework by which to administer access to public records.

1.2. Port Policy and Procedure

The Port of Whitman County (Port) is a special-purpose municipal corporation that serves the citizens of Whitman County and complies with the Washington State Public Records Act Chapter 42.56.

The Port is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations, consistent with the intent of the Washington State Public Records Act (PRA), referenced in RCW Chapter 42.56 and the Model Rules of WAC 44-14., and to provide access to public records, protect public records from damage and disorganization and to prevent excessive interference with other essential functions of the Port. The Port is also required to protect certain public records from disclosure subject to various legal exemptions.

The purpose of establishing the following policy and procedure is to provide a method by which Port staff will review and respond to requests for public records within the Public Records Act framework. The information contained in this document is designed to aid both those requesting public records and those responding to records requests. The policy and procedure should assist in guiding expectations of requesters and providing notice of a mechanism by which to appeal a records decision, if necessary.

2. REFERENCE

- RCW 42.56, Public Records Act-
<https://app.leg.wa.gov/RCW/default.aspx?cite=42.56>
- Chapter 44-14 WAC Public Records Act -Model Rules-
<https://app.leg.wa.gov/wac/default.aspx?cite=44-14-040>

3. POLICY

The Port shall provide for inspection and copying of requested public records as provided in this policy and procedure, unless such records are exempt from disclosure under RCW 42.56 or other law under which disclosure is regulated. Port staff shall provide assistance to requesters in obtaining the public records they seek.

4. RESPONSIBILITY / AUTHORITY

4.1. Public Records Officer

The name and contact information of the Public Records Officer will be posted on the Port of Whitman County's website at <http://portwhitman.com/about/publicrecords>.

The Port's public records officer will oversee compliance with the Public Records Act and these procedures. The Port's public records officer may delegate the responsibilities of processing requests to other staff.

4.2. Port Staff

Port staff will provide assistance to requesters, reasonably 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 Whitman County. Assigned Port staff will be responsible and held accountable to meet the Port's responsibilities of this policy. Failure to do so will result in disciplinary actions.

4.3. Requesters

While requesters are not required to specifically name the Public Records Act, they must give reasonable notice that the request is being made pursuant to the act. Requesters must request identifiable records or classes of records that the Port can reasonably locate even though they are not required to specifically state the exact record sought. For example, using inexact phrases such as "relating to" a topic (such as "all records relating to the property tax increase") will need clarification from the requester to determine what records fairly and directly address the topic.

5. DEFINITIONS

Active Record: An active record is used in an office on a routine basis and accessed at least several times per year. Active records are usually kept on-site.

Archival (Appraisal Required) Record: Public records with archival (appraisal required) designation are records which may possess enduring legal and/or historic value and must be appraised by Washington State Archives on an individual basis. Records not selected for retention by Washington State Archives may be disposed of after appraisal.

Archival (Permanent Retention) Record: Public records with archival (permanent retention) designation are records which possess enduring legal and/or historic value and must not be destroyed. These records need to either be transferred to Washington State Archives or retained and preserved according to archival best practices until such time as they are transferred to Washington State Archives.

Essential Record: Essential records are those the Port must have in order to maintain or resume business continuity following a disaster. While the retention requirements for essential records may range from very short-term to archival, these records are necessary to resume core functions following a disaster. Security backup of these public records should be created and may be deposited with Washington State Archives.

Inactive Record: An inactive record is used or accessed in an office infrequently or no longer used in the conduct of current business, but is still required to be kept by the retention schedule for legal or historical purposes. Inactive records are usually stored off-site.

Public Record: RCW 40.14.010 defines public record as "...The term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business..."

RCW 42.56.010(3) defines a public record as “...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...”

If there is a conflict in the two definitions the Port, subject to legal review, will apply the broadest definition.

Records Disposition: Disposition is the action taken with records when they are no longer required to be retained by the agency. Possible disposition actions include transfer to archives and destruction.

Retention Schedule: The retention schedule consists of tables setting out requirements adopted by the Washington State Local Records Committee which specifies the length of time each record series will be retained by the agency, whether the record is designated essential, archival, or potentially archival, and final disposition of the record.

Writing: RCW 42.56.010(4) states: “Writing means handwriting, typewriting, printing, photo stating, 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.”

6. GUIDELINES

6.1. Liability

Neither the Port nor any officer, employee, official, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of public records if the person releasing the records acted in good faith in attempting to comply with this policy. This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as “shall,” nothing in this policy is intended to impose mandatory duties on the Port beyond those imposed by state and federal law.

6.2. Availability of Public Records

- a. Index. The Port of Whitman County determined by Resolution 19-14, adopted on November 7, 2019, that maintaining an index is unduly burdensome, costly, and would interfere with agency operations given the wide range of Port activities, the limited staff availability, and the inordinate amount of time it would take to develop and maintain such an index.
- b. Port Website. Some records, including meeting agendas and minutes, are available on the Port’s web site at <http://portwhitman.com/>. Requesters are encouraged to view the documents available on the web site prior to submitting a records request.
- c. Protocol for Inspection/Copying. Public records are generally available for inspection and copying during normal business hours of Monday through Friday, 7:30 a.m. to 4 p.m., excluding legal holidays. Records must be inspected at the Port of Whitman County office. Requesters are prohibited from removing records from the Port office.

- d. Maintenance/Order of Records. The Port will maintain its records in a reasonably organized manner. The Port will take reasonable actions to protect records from damage and disorganization.

6.3. Making a Request for Public Records

Any person wishing to request access to public records or any person seeking assistance in making a request should contact the public records officer:

Public Records Officer
Port of Whitman County
302 N Mill Street
Colfax, WA 99111
Phone: 509-397-3791
publicrecords@portwhitman.com

Requests may be submitted on the Port's request form in person, by regular mail, by email or by fax to the records officer set forth in section 6.2. Email requests must be sent to publicrecords@portwhitman.com.

The Public Records Request Form is available on the Port of Whitman County website at <http://portwhitman.com/about/publicrecords>.

However, if the request is by telephone or the requester is in need of assistance, responding staff will confirm receipt of the information and the substance of the request in writing by entering the following request information into the Port's request form on the requester's behalf.

1. Name of requester;
 2. date of request;
 3. phone, email, and/or address or other contact information of requester;
 4. identification of the public records adequate for the public records officer or designee to locate the records (title and date, if known);
 5. whether the requester intends to inspect the records or obtain a photocopy of the records, at the cost set forth in Section 6.16 of these policies; and
 6. method by which the Port should contact requester.
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- a. Staff and officials will be advised by the records officer coordinators to retain possession of records covered by public records requests, including any records that may be scheduled for destruction. Port staff may not destroy or otherwise delete responsive records until the request is fulfilled.
 - b. A requester is not typically required to state the purpose of the request. However, in instances where additional information is required by law or in an effort to clarify or prioritize a request and provide responsive records, the public records officer or designee may inquire about the nature or scope of the request.

6.4. Processing Public Records Requests

- a. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

- b. Within five business days of receipt of the request (day one is the first working day after the request is received), the public records officer or designee will do one or more of the following:
 - 1. Make the records available for inspection or copying; or
 - 2. identify an internet location where the record can be accessed. Requesters who cannot access the internet may be provided hard copies or access to a Port terminal to access the record; or
 - 3. acknowledge receipt of request, provide a reasonable estimate of when records will be available and, if the request is unclear, also request clarification; or
 - 4. deny the request.
- c. If the Port of Whitman County does not respond in writing within five business days of receipt of the request for disclosure, the requester should consider contacting the public records officer to determine the reason for the failure to respond.
- d. In the event that the requested records contain information that may affect rights of others and/or may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to those persons. Such notice should be given to make it possible for those receiving the notice to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will typically include a copy of the request.
- e. Some records are exempt from disclosure, in whole or in part. If the Port of Whitman County believes that a record or portion of a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld.

6.5. Inspection of Records

- a. The Port of Whitman County will provide a space for persons to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requester shall indicate which documents should be copied by the agency.
- b. Parties wishing to inspect electronic records may be provided copies of the records on a CD or other storage device, may be directed to an internet address where the records can be accessed, or may receive records by email. If a requester cannot access records in these ways, the Port may provide hard copies or allow a requester to view copies on an agency computer.
- c. The requester must make arrangements to claim or review the assembled records within thirty days of notification that the records are available for inspection or copying.
- d. If the requester fails to claim or review the records within the thirty-day period or make other arrangements, the Port may close the request and re-file the assembled records. In the event the requester submits a new request for the same or almost identical records, the process will begin anew.

6.6. Providing Copies of Records

After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying. The requester shall pay any applicable deposit prior to copies being made. Full payment for copies must be received prior to delivery of the requested copies.

6.7. Providing Records in Installments

- a. When the request is for a large number of records or when a portion of responsive records is more readily available than others, the public records officer or designee may provide access for inspection and copying in installments if the employee reasonably determines that would be practical.
- b. If, within thirty days, the requester fails to inspect the available installments, the public records officer may discontinue the search for the remaining records and close the request.

6.8. Completion of Response to Inspect Records

When the search for requested records is complete and all requested records are provided for inspection, the public records officer or designee will indicate that the Port has completed a reasonable search for the requested records and made any located, nonexempt records available for inspection.

6.9. Closing Withdrawn or Abandoned Requests

When the requester either withdraws the request, fails to timely clarify a request, fails to fulfill the obligation to timely inspect the records, or fails to pay the required amount due for requested copies, the public records officer will close the request and indicate to the requester that the Port has closed the request.

6.10. Later Discovered Documents

If, after the Port has informed the requester that it has provided responsive records, the Port becomes aware of additional responsive documents existing at the time of the request, and it will promptly inform the requester of the additional documents and provide them as soon as possible. However, a public records request is not continuing in nature. If a requester desires additional records created or obtained by the Port after the date of the original request, the requester must submit a new request.

6.11. Completion of Request

The Port's response to a request shall be deemed complete upon the requester's inspection of the records, or upon notification that copies of all the requested records are available for payment and delivery or pick up, or upon notification that records have been mailed or emailed, or upon notification that no responsive records were located.

6.12. No Duty to Create New Records

The Port is not obligated to create new records to satisfy a records request; however, the Port may, at its discretion, create such new records to fulfill the request where the Port deems that method of response more expedient.

6.13. Processing of Public Records Requests-Electronic Records

- a. The process for requesting electronic records is the same as for requesting public records in hard copy.
- b. When a requester seeks records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.
- c. With the consent of the requester, the Port may provide customized access if the record is not reasonably translatable into the format requested. The Port may charge a fee consistent with RCW 43.41A, which states in part, “. . . Fees for staff time to respond to requests and other direct costs may be included in costs of providing customized access...”
- d. Electronic mail (e-mail) is an informational transfer system which uses computers for sending and receiving messages. Email messages are public records when they are prepared, owned, used, or retained by the Port and relate to the conduct of government or performance of any governmental or proprietary function.

6.14. Exemptions

- a. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any “other statute” exempts or prohibits disclosure. Requesters should take note that there are many exemptions contained outside of the Public Records Act that may restrict the availability for inspection or release of some documents. Many such exemptions are listed in Section 7.1 of this policy. This list is for informational purposes only and failure to list an exemption shall not affect the efficacy of any exemption.
- b. The Port is prohibited by statute from disclosing lists of individuals requested for commercial purposes.

6.15. Costs of Providing Copies of Public Records

- a. The Port of Whitman County determined by Resolution 19-14, adopted on November 7, 2019, that it would be unduly burdensome to perform a study to calculate the actual costs of copying records (i.e.: paper, ink, staff salary expense incurred in copying). The Port will, therefore, charge fees to copy and provide public records not to exceed those permitted by RCW 42.56.120.
- b. There is no fee for inspecting public records, however, the Port does charge the following fees for copying and sending records to the requestor.
- c. Copying is charged at fifteen cents (\$.15) per page, for paper copies, and ten cents (\$.10) per page, for scanned copies. If the amount of copies requested is 20 pages or less, the Port will waive this fee. For example, a request for twenty-one pages of paper copies will cost \$3.15.
- d. Envelopes and/or packaging are charged at the actual costs of those supplies.

- e. Postage is charged at the actual postage costs of such postage.
- f. Digital Storage media/devices are charged at the actual cost of materials (such as a CD, DVD, flash drive, etc.)
- g. Uploading/attaching electronic files to digital storage media/device(s), a cloud-based data storage service, or emails is charged at five cents (\$.05) per each four files. If the number of files is 80 or less, the Port will waive this fee. For example, a request for eighty-four files will cost \$1.04.
- h. Transmission of public records in an electronic format is charged at ten cents (\$.10) per gigabyte.
- i. Customized service charges are charged at the actual cost if the Port estimates that the 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.
- j. In the event a request is estimated to exceed \$25, the Port may require the requester to deposit an amount not to exceed 10% of the estimated cost prior to the duplication of record(s).
- k. The Port may waive charges at its discretion.
- l. Payment may be made by cash, check, or money order payable to the Port of Whitman County.

6.16. Review of Denials of Public Records

- a. Any person who objects to the initial denial or partial denial of a records request may petition in writing to the public records officer for a review of that decision. The petition must include a copy of or shall reasonably identify the written statement by the public records officer or designee denying the request.
- b. The public records officer or designee will immediately consider the petition and either affirm or reverse the denial within two business days following the public records officer's receipt of the petition, or within such time as the Port and the requester mutually agree RCW 42.56.520.

7. APPENDIX

7.1. List of Exemptions

- a. Reference [Section 6.14.](#) of these policies.
- b. The Washington State Code Reviser's Office annually publishes a list of public disclosure exemptions contained in the Revised Code of Washington at <https://www.atg.wa.gov/sunshine-committee>.

RCW	Description
<u>42.56.230</u> (3)	Personal information in files on employees, appointees, or elected officials if disclosure would violate their right to privacy
<u>42.56.230</u> (4)	Certain taxpayer information if it would violate taxpayers right of privacy
<u>42.56.230</u> (5)	Credit card numbers, debit card numbers, electronic check numbers, and other financial information, except when disclosure is required by other law
<u>42.56.240</u> (2)	Identity of witnesses, victims of crime, or persons who file complaints, if the timely request nondisclosure and disclosure would endanger their life, personal safety, or property-does not apply to PDC complaints
<u>42.56.240</u> (7)	Data from electronic sales tracking system in RCW <u>69.43.165</u>
<u>42.56.250</u> (2)	Applications for public employment, including names, resumes
<u>42.56.250</u> (3)	Address, phone nos., email address, SSNs, etc. of public employees or volunteers held by public agencies
<u>42.56.250</u> (4)	Information from employee relating to an unfair practice, if requested
<u>42.56.250</u> (5)	Records of unfair practices investigations
<u>42.56.260</u>	Real estate appraisals for agency acquisition or sale until project or sale abandoned, but no longer than 3 years in all cases
<u>42.56.270</u> (1)	Valuable formulae, designs, drawings and research obtained by agency within 5 years of request for disclosure if disclosure would produce private gain and public loss
<u>42.56.270</u> (4)	Financial information in economic development loan applications
<u>42.56.270</u> (5)	Financial information obtained from business and industrial development corporations
<u>42.56.270</u> (6)	Financial information on investment of retirement moneys and public trust investments
<u>42.56.270</u> (7)	Financial and trade information supplied by and under industrial insurance coverage
<u>42.56.280</u>	Preliminary drafts, notes, recommendations, and intra-agency memos where opinions are expressed or policies formulated or recommended, unless cited by an agency
<u>42.56.290</u>	Agency records relevant to a controversy but which would not be available to another party under the rules of pretrial discovery for causes pending in the Superior courts
<u>42.56.300</u>	Information identifying the location of archaeological sites
<u>42.56.330</u> (1)(i)	Individually identifiable information in state employee wellness program
<u>42.56.330</u> (3)	Personal information in vanpool, carpool, ride-share programs (1997)