

	ADMINISTRATION MANUAL		Page: 1 of 10
	Section:	EMPLOYEE RESPONSIBILITIES	Date: 7/1/2008
	Subject:	PUBLIC RECORDS REQUESTS RESPONSE PROCEDURES	Item: 1106

1.0 OVERVIEW:

The Port of Tacoma is a special-purpose local government that was created by, and serves the citizens of Pierce County. The Port is committed to public accountability and operates in conformance with the Washington State Public Records Act (Chapter 42.56 RCW). The Washington State Public Records Act has been revised by the Washington State Legislature and requires that each local agency shall prominently display and make available for inspection and copying substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency. This manual should be read as conforming to the Washington State Public Records Act (Chapter 42.56 RCW).

2.0 PURPOSE:

2.1 To describe the standard Port of Tacoma systems and procedures for responding to public records requests.

3.0 ORGANIZATIONS AFFECTED:

All Port of Tacoma departments and offices.

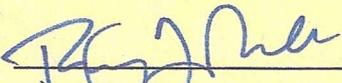
4.0 REFERENCES:

4.1 [Washington State Public Records Act \(Chapter 42.56 RCW\)](#)

5.0 DEFINITIONS:

5.1 "Exempt" means that a law allows or requires the withholding of a document, or a portion thereof, from public disclosure.

5.2 "Five-Day Letter" refers to the Port of Tacoma's initial written response to a person

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who has made a public records request. This letter is required by statute to be postmarked no later than five business days after the receipt of the original request.

5.3 "Fullest Assistance" means a timely and thorough action and response to a public records request.

5.4 "Identifiable Public Record" refers to a record that contains a reasonable description enabling the Port of Tacoma employee to locate the requested records.

5.5 "Public Record," as defined in the Washington State Public Records Act, means 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 the agency

5.6 "Public Records Coordinators" (who may also be known as Public Disclosure Coordinators) are those Port of Tacoma employees who may be responsible for collecting and processing for completion of a response to public records request within individual departments and offices.

5.7 "Public Records Officer" is the individual responsible for: establishing public records response protocols for the Port of Tacoma; assisting departments and offices with unusually large or complex public records requests; developing training protocols for all Port of Tacoma Public Records Coordinators; and developing other guidance resources such as on-line public records request information.

5.8 "Public Records Request" is defined as a request to inspect or receive a copy of an identifiable public record.

5.9 "Public Records Requests on-line information" describes the web-based Port of Tacoma internet application that provides general guidance on public records requests response procedures.

5.10 "Public Records Requests Tracking System" refers to the web-based intranet application that catalogs all public records requests and the status of their associated responses for the C -Team.

5.11 "Redaction" refers to the method of protecting from public viewing a portion of a record that is statutorily exempt from public disclosure.

5.12 "Shall" and "shall not" are legal terms to express mandatory and prohibited actions for Port of Tacoma employees.

5.13 "Sunset Review" is an evaluation of the need for the continued existence of a program administration manual. It allows for a review assessment of the effectiveness and performance of the program manual. This review provides an opportunity to either

(1) retain the program manual as is; (2) modify the program manual; or (3) allow the program manual to terminate.

5.14 "Will" is defined in this manual to specify the operational conduct required of all Port of Tacoma employees.

6.0 POLICIES:

6.1 Pursuant to [RCW 42.56.070](#), the Port of Tacoma has determined that it would be unduly burdensome to maintain an index of records as set forth in said RCW. This determination is based on the fact that the Port of Tacoma has a large number of departments, divisions and sub-units within such departments. Such departments are in different locations. It is practically not feasible to maintain a central index of documents within the port's organizational structure. Even if such an index was feasible, the cost in terms of manpower, inefficiency, and delayed ability to respond to substantive issues would be prohibitive. The determination made in this section shall be considered to be a "formal order" as that term is used by [RCW 42.56.070](#).

6.2 Port of Tacoma departments and offices shall make all non-exempt records available for inspection and copying in accordance with the Washington State Public Records Act. To this end, Port of Tacoma departments and offices shall provide to the public the fullest assistance to ensure access to records containing information about the conduct of government at all levels, while also being mindful of individuals' privacy rights (as defined by [RCW 42.56.050](#)) and the desirability of the efficient administration of government.

6.3 The Port of Tacoma Public Records Officer shall serve as the point of contact for members of the public requesting disclosure of public records and oversee the agency's compliance with the public records disclosure requirements. The name and contact information of the Public Records Officer will be posted at the Port of Tacoma in a highly visible location and on the external internet home site for accessibility by the public. ([RCW 42.56.580](#))

Duties include the following:

(A) Making requested records available for inspection and copying; or

(B) Acknowledging receipt of the request within five business days and providing, in writing, a reasonable estimate of when the records will be available (see attached sample letter in Appendix A); or

(C) If the request is unclear or does not sufficiently identify the requested records, sending a written request for clarification to the requestor; or

(D) Denying the request in writing in accordance with Washington law when appropriate.

6.4 Questions about public disclosure that require legal interpretation beyond those addressed in this policy will be referred to the Public Records Officer or the Port of Tacoma Legal Counsel Office.

6.5 Public records requests received from a labor union representing Port of Tacoma employees will be reviewed by the Labor Relations Section of the Human Resources Department when they are received.

6.6 Public records requests involving public policy issues shall be reviewed by the Chief External Affairs Officer when they are received.

6.7 Citizens interested in making a public records request should be encouraged to do so in writing by directing them to the Port of Tacoma's electronic form which is available through the Port's website home page at www.portoftacoma.com. Public records requests will be accepted electronically via e-mail and fax, or in writing. The substance of verbal requests should be promptly confirmed in writing to the requestor by the Public Records Officer.

6.8 Port of Tacoma departments and offices, when providing records for public inspection, shall make records available for inspection and copying during the customary office hours. The requestor may also make mutually agreed-upon arrangements for inspection and copying.

6.9 Port of Tacoma departments and offices will "protect public records from damage or disorganization" ([RCW 42.56.100](#)). Therefore, requestors shall not be allowed to take original records out of a Port of Tacoma office. Extremely large copying requests may be completed by an outside copying vendor. The responsible office or department will manage the transfer of original records between the office and the vendor.

6.10 For records exempt from disclosure, the Port of Tacoma Legal Counsel shall state the statutory exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of the record is exempt from disclosure, but the remainder is not exempt, either the department or office Public Records Request Coordinators or Public Records Officer as appropriate shall redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted. All such documentation as described in this section may be specified in either a transmittal letter or a withholding index.

6.11 Consistent with other requests, Port of Tacoma departments and offices shall provide space to inspect public records, usually at the Port Administration Office located at One Sitcum Plaza Tacoma, WA 98421.

6.12 After inspection is complete, the assigned Public Records Request Coordinator or designee shall copy the requested records or arrange for copying.

6.13 There is no fee for inspecting public records. A requestor may obtain standard black and white copies for (\$.15) cents per page. The Port of Tacoma may also charge

the actual cost of mailing based on the current postage rate and will inform the requestor before the copying is performed.

6.14 Port of Tacoma departments and offices cannot deny a request for being “overbroad”. However, when a request is for a large number of records, the Public Records Officer shall provide access for inspection and copying in installments if that officer reasonably determines that it would be practical to provide responsive records in such a manner. If, within thirty days, the requestor fails to inspect the entire set of records in one or more installments, the Public Records Officer may stop searching for responsive records and close the request. The Public Records Officer shall promptly notify the requestor in writing when a request is closed.

6.15 If, after the Public Records Officer has informed the requestor that it has provided all available records and then becomes aware of responsive material that was not initially disclosed, he/she will promptly inform the requestor of the additional documents and provide them on an expedited basis.

6.16 Port of Tacoma departments and offices shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose of the request; unless it must be determined whether a request for a list of names is being requested for commercial purposes, or information is needed to determine whether another statute prohibits disclosure.

6.17 Port of Tacoma department and offices are not obligated to create new records in order to respond to a public records request ([WAC 44-14-04003](#)).

6.18 Port of Tacoma departments and offices will only request clarification of an unclear request or a request for which responsive records cannot be identified through the Port of Tacoma Public Records Officer.

6.19 An example of a request for information versus a request for records” is distinguished by "How many employees used sick days in the year 2006?" versus "Provide all of the time sheets or other documents that show how many sick days were used by employees in the year 2006." Specifically, the Port of Tacoma is not obligated to respond to requests for information e.g., routinely published brochures or informational handouts / annual reports. However, it is in the best interest of the Port’s community outreach and communications and public relations efforts to do so, if collecting the information requires a manageable time investment. In addition, providing the information may prevent a subsequent public records request.

7.0 PROCEDURES:

Action By: Departments / Public Records Officer / Public Records Coordinators / Legal Counsel

Action:

7.1 Receive request for public records and provide a copy to the Public Records Officer.

7.2 The Public Records Officer will date stamp and log into the Public Records Requests Tracking System all public records requests so that the Port of Tacoma has a record of the date of receipt of the request, as well as what specific records are being requested.

7.3 The Public Records Officer shall respond to the request in writing within five (5) business days by making the records available for inspection and copying or by taking one of the other actions detailed in section 6.3 of this policy.

7.4 In the event that the requested records contain information that may affect the rights of others and is arguably exempt from disclosure, the Public Records Officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice shall be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request. Before any such notification is sent to affected parties, the office or department shall coordinate with the Port of Tacoma Legal Counsel.

7.5 If the Port of Tacoma cannot provide the requestor with access to or copies of the requested records that are subject to disclosure within the appropriate estimated timeframe, the requestor shall be informed in writing of the additional time that it will take to produce the records. In addition, the Public Records Officer shall determine how much additional time to respond is appropriate only where it is reasonable in light of the circumstances, e.g., while gathering the requested records, it is determined that they are more voluminous or less readily accessible than originally believed.

7.6 If a denial or partial denial occurs, the Public Records Officer after consultation with Legal Counsel shall remove the records or partial records from the disclosable materials. All denials or partial denials shall be documented in writing to the requestor, either in a transmittal letter or in the form of a withholding index.

7.7 If the requestor protests the department decision, the Port of Tacoma Public Records Officer and the Port of Tacoma Legal Counsel will confer on the appropriate resolution.

7.8 Inspection shall occur at a time mutually agreed upon by the requestor and the Port of Tacoma Public Records Coordinator. The Port of Tacoma shall not limit times of inspection to times during which the requestor is unavailable. Requestors cannot dictate unusual times for inspection. The Port of Tacoma is only obligated to offer inspection during customary office hours. Typically, the records are produced for inspection in a conference room or other office area. The inspection of records cannot create excessive interference with essential office functions. A Port of Tacoma office shall have an employee observe the inspection or copying of records by the requestor to ensure that the records are not altered or destroyed.

8.0 RESPONSIBILITIES:

8.1 All departments will follow the procedures outlined in this policy. Public records are public property. Their precise legal status varies depending on whether they are currently in the offices of the originating agency, or accessioned into the archives as historical records. These distinctions dictate who is responsible for responding to a request for public records or a discovery demand in litigation. Records created and stored in Port of Tacoma offices are in both the legal and physical custody of the agency. Therefore,

8.2 All departments are responsible for:

(A) Appointing an employee(s) as the (Public Records Coordinator) who is responsible for reviewing, processing, and/or coordinating with the Port of Tacoma Public Records Officer to ensure quality and timely responses to public records requests.

(B) Delegating to the department Public Records Coordinator the authority to log into the Port of Tacoma Public Records Requests Tracking System; as well as updating the log as individual response actions progress affecting the department's public records.

(C) Establishing employee backup protocols for managing public records responses in the absence of the department's appointed Public Records Coordinator(s).

(D) Sending appointed Public Records Coordinators to public records-related training sessions as they are developed and advertised by the Public Records Officer.

(E) Alerting the Public Records Officer of public records requests which are unusually difficult or large in scope.

(F) Forwarding responsive records in a timely fashion to the department's appointed Public Records Coordinator when such records are requested in order to process a public records response.

8.3 The Public Records Officer is responsible for:

(A) Providing internal instructions to all departments and offices on public records requests and the procedures described in this policy.

(B) Assisting departments with unusually large or complex public record requests.

(C) Developing training protocols for all Port of Tacoma Public Records Coordinators.

(D) Developing guidance resources for Public Records Coordinators, such as the on-line "Introduction to a Public Records Response" Microsoft PowerPoint presentation.

(E) Assisting departments in properly documenting their records series and managing the public records requests status.

(F) Performing as the liaison between the Port of Tacoma and outside legal counsel.

9.0 APPENDICES:

9.1 See sample “Five Day Letter” response I [MS Word] acknowledging receipt of a public records request and providing a reasonable estimate of when the records will be available. (Appendix A)

9.2 See sample Port of Tacoma Request for Access to Public Records internet form [Adobe PDF] to be used for appropriate submission by individual requestors. (Appendix B)

(Appendix A – Sample Response Letter)

DATE
REQUESTOR NAME
MAILING ADDRESS

RE: Your (DATE PUBLIC RECORDS REQUEST WAS RECEIVED)
Public Records Request

Dear (REQUESTOR NAME):

Thank you for your public records request, which was received by this office on RECEIVING DATE. In your letter, you asked for all Port of Tacoma records pertaining to the XXXX Project.

The Port of Tacoma employees are currently collecting public records responsive to your request. To review these responsive records, we will contact you within the next XX days. Our employees will be ready to assist during your inspection of the responsive records and will facilitate any copying that you require at the standard fifteen cents a copy rate for a standard black and white photocopy.

Please keep in mind that the responsive records will only be held for fourteen business days and will be closed as an abandon request. Therefore, if you do not contact the Port of Tacoma Public Records Officer prior to XXX, XX, 20XX you will need to make another public records request.

If you have questions or need additional information, please do not hesitate to contact me at telephone number (253) 830-5375, fax number (253) 830-5377 or e-mail address trihoward@portoftacoma.com.

Sincerely,

Tri Howard
Public Records Officer

(Appendix B – Sample Internet Form)

Submit by E-mail Print Form

Fax No. 253-830-5377



Request for Access to Public Records

Name Phone Number
Address Fax Number
City State Zip Code E-mail
Country

Choose Action Requested
Copy fee is \$.15 per page or actual cost charged by a copy service, plus cost of postage.

Record(s) Requested (be specific)

Signature Date
ID may be required.

PORT OF TACOMA RESPONSE

The record(s) you requested are available.
 Your request has been received and is being processed. It will be ready by:
 We do not have the record(s) (see remarks).
 The record(s) you requested is/are exempt from inspection (see remarks).
 Additional information is needed in order to process your request (see remarks).

REMARKS:

Total number of copies @ \$.15/Copy Postage Total Due:

Signature Date E-mail