



Public Records Policy

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Lane Council of Governments

**859 Willamette Street, Suite 500
Eugene, OR 97401
(541) 682-4283 phone
(541) 682-4099 fax**

www.lcog.org

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LCOG PUBLIC RECORDS POLICY

Purpose

The purpose of this Policy is to provide for the proper disclosure of the Lane Council of Governments (LCOG) records in accordance with the Oregon Revised Statutes and the Oregon Administrative Rules.

LCOG Policy

Pursuant to Oregon Revised Statutes, every person has a right to inspect any nonexempt public record. It is the policy of LCOG to ensure that all requests for public records are handled consistent with applicable public records laws and as expeditiously as practicable. This procedure shall be implemented in a manner that minimizes the impact on LCOG workload and resources.

Definitions

- **Record.** For purposes of retention, record means any recorded information, regardless of physical form or characteristic, prepared, owned, used or retained by the LCOG in connection with an activity, transaction, or function of the LCOG that is or was necessary to satisfy the fiscal, legal, administrative, or historical policies, requirements or needs of the LCOG. ORS 192.005(5).

For purposes of disclosure, a record means any writing containing information relating to the conduct of the LCOG's business, including but not limited to court records, mortgages, and personnel records, prepared, owned, used or retained by LCOG regardless of physical form or characteristics.

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.

- **Business Day.** A day other than Saturday, Sunday, a legal holiday, or a schedule agency closure.

Records Officer

The Executive Director is the Records Officer for LCOG.

- **Responsibility.** The Executive Director shall be responsible for the maintenance of all COG records. The Executive Director may delegate such duties as he or she desires.
- **Liaison.** The Executive Director shall be the designated LCOG employee to coordinate with the State Archivist in regard to the LCOG Records Management Policy.

Public Records Custodian

The Public Information Officer or the Executive Director's designee shall be LCOG's Public Records Custodian (Custodian). Tasks associated with requests for public records may be assigned to various LCOG staff as deemed appropriate by the Custodian.

Duties

This Section outlines the relevant duties of all LCOG employees in regards to compliance with this Policy.

- A. Executive Director.** The Executive Director, or his/her designee, shall be responsible for the following:
 1. Acquiring, receiving, appraising and securing records of permanent value from all employees of LCOG.
 2. Securing the transfer of records to the State Archives when it has been determined that LCOG records are stored under conditions that do not meet the standards established by the State Archivist.
 3. Maintaining inventories, indexes, catalogs, and other finding aids or guides to facilitate access to LCOG records.
 4. Coordinating with legal counsel as necessary in analyzing, developing, and providing written standards and procedures for the care and maintenance of LCOG records, including those created and/or maintained in electronic format.
 5. Ensuring LCOG records are maintained in a manner that meets guidelines set by the State Archivist for security and environment.
 6. Establishing procedures for the prompt and orderly disposition of COG

- records for which the State Archivist has granted authority to destroy.
7. Maintaining a file of certifications of those records that have been destroyed as a permanent record.
 8. Provide training to LCOG employees on all aspects of records management.
 9. Administering LCOG policy on public record disclosure as required by Oregon law

B. Public Information Officer. The Public Information Officer shall be responsible for the following:

1. Coordinating with the Executive Director in analyzing, developing, and providing written standards and procedures for the care and maintenance of LCOG records, including those created and/or maintained in electronic format.
2. Working with the Executive Director to provide training to LCOG employees on all aspects of records management.
3. In conjunction with legal counsel, as necessary, reviewing and approving all records for destruction.
4. Reviewing all requests for public records and assessing compliance with this policy.

C. All Other Employees. All other employees shall be responsible for maintaining all records in accordance with this Policy and shall seek the assistance and direction of the Executive Director or Administrative Assistant as needed.

Public Access to Records

Oregon Public Records Law (ORS 192.410-192.505) gives members of the public the right to inspect and copy public records that are not otherwise exempt from public disclosure. It is the policy of LCOG to respond to public records requests as soon as practicable and without unreasonable delay. The purpose of this section is to:

- Establish an orderly and consistent procedure for responding to public records requests;
- Establish the basis for a fee schedule designed to reimburse LCOG for the actual costs incurred in responding to public records requests; and

- Inform individuals of the procedures and guidelines that apply to public records requests.

Procedure

Public Records Request. All public records requests must identify the public records requested and be submitted on the form provided by LCOG or in writing and directed to:

Public Records Request
c/o Public Information Officer
Lane Council of Governments
859 Willamette Street, Suite 500
Eugene, OR 97401

All public records requests will be granted or denied in accordance with Oregon Public Records Law. Each request must reasonably describe the records being sought. This means that a request must be specific enough to permit the Custodian or other staff member to reasonably identify the information requested and records that may be responsive to that request. The Custodian may ask a requester for clarification of the request. Questions regarding the exempt status of any requested public record shall be first reviewed by in-house legal staff and, if determined necessary by the Director, by LCOG Legal Counsel.

The Custodian shall, upon request for any public record that a person has a right to inspect, give the person either (1) a copy of the public record if the public record is of a nature permitting copying; or (2) a reasonable opportunity to inspect or copy the public record.

If the public record is maintained in a machine readable or electronic form, the Custodian shall provide a copy of the public record in the form requested, if available. If the public record is not available in the form requested, the Custodian shall make the public record available in the form in which it is maintained. Public Records law does not require the creation of a new record to satisfy a records request.

Note: Requests to create a new record are not a public records request. Public bodies are not obligated under the Oregon Public Records Law to create new public records where none exists in order to respond to requests for information. The Executive

Director will determine on a case-by-case basis whether a request to create a record will be fulfilled, and at what cost to the requestor.

1. **Initial Response to Public Records Requests.** Except when impracticable, as defined by Section 4 of SB481 (2017), after receiving a request for a public record, LCOG will acknowledge the requests within five business days by:

- Informing the requester that LCOG is not the custodian of the requested record(s);
- Notifying the requester that LCOG is uncertain whether LCOG is the custodian of the requested record(s);
- Confirming that LCOG is the custodian of some or all of the requested record(s), with an estimate of the fees the requestor must pay prior to receiving the records; or
- Noting that the request is unclear, ambiguous or lacks specificity and requesting additional clarification.

2. **Coordination with Member Governments.** As a service provider to member governments (land use planning, executive recruitment, etc.) LCOG prepares and uses public records on behalf of member governments. Although LCOG is the custodian of such records when they are in the possession of LCOG, those records are owned by the member government. If a records request involves records owned by a member government, LCOG will notify that member government of the request as soon as practicable and indicate whether LCOG intends to release the record or claim an exemption.

3. **Deadline for Response.** Except when impracticable, as defined by Section 4 of SB481 (2017), within 10 business days of receiving a fee deposit (or determining that the fee is waived) LCOG will respond to the request in one or more of the following ways:

- Providing instruction on how to access or providing copies of the requested record(s), which LCOG does not claim an exemption from disclosure under ORS 192.410 to 192.505;
- Where LCOG was uncertain whether it was the custodian of the

requested record, providing a statement that LCOG does not have custody of the requested public record(s);

- Providing a statement that state or federal law prohibits LCOG from acknowledging whether the record(s) exists and a citation to the relevant state or federal law;
- Providing a statement that LCOG is the custodian of some or all of responsive record(s), but that some or all of the requested record(s) are exempt from disclosure, with a citation to the exemption (and, if LCOG cites ORS 192.502 (8) or (9), the statement will identify the state or federal law that the public body relied on in asserting the exemptions) and include in the statement that the requester may seek review of the public body's determination pursuant to ORS 192.450, 192.460, 192.465, 192.470, 192.480 and 192.490; and/or
- Providing a written statement that LCOG is still processing the request and provide a reasonable estimated date by which LCOG expects to complete its response based on information currently available.

4. **Closing of the Matter.** LCOG will close the request upon either providing access to or the delivery of the requested records, notification of the claim of exemption, and any appeal period has passed or the appeal is resolved. If a requester fails to pay a fee within 60 days of the date on which LCOG informed the requester of the fee, or fails to pay the fee within 60 days of the date on which LCOG informed the requester of the denial of the fee waiver, LCOG shall close the request without any further obligation to the requestor. If the requester fails to respond within 60 days to a good faith request from LCOG for information or clarification, LCOG shall close the request without any further obligation to the requestor.

Fees

1. The Oregon Public Records Law allows public bodies to recover their actual costs in fulfilling a public records request. **If the estimated total fee is greater than \$20**, LCOG will provide the requestor with written notice of the estimated amount of the fee. In such instances, LCOG will not fulfill the public records request until the requestor makes a deposit in an amount of the estimated fee.

If a request results in less than 10 minutes of staff time **AND** less than \$5.00 of production costs, fees will be waived.

If the document already exists in paper form and no printing is required, then that public record may be reviewed without a fee. A staff member must be present at all times during the inspection of the records.

2. The fee will be reasonably calculated to reimburse LCOG for its actual costs in making the records, and may include:
 - Charges for the time spent by LCOG staff to locate the requested public records, to review the records in order to determine whether any requested records are exempt from disclosure, to segregate exempt records, to supervise the requestor’s inspection of original documents, to copy records, to certify records as true copies, and to send records by special or overnight methods such as express mail or overnight delivery;
 - A per-page charge for photocopies of requested records; and
 - A per-item charge for providing CDs, audiotapes, or other electronic copies of requested records.

LCOG public records fee schedule is as follows:

Photocopies	Standard (B&W)	\$0.06 per page
	Color	\$0.15 per page
Mailing Lists	CD	\$40
	Printed Labels	\$40 + \$0.15 per label
	Printed List	\$40
Labor Charges*	Administrative Staff	\$38.00 per hour
	Technical Staff	\$95.00 per hour
	Legal and Management Level Staff	\$115.00 per hour
Other	Geospatial Data ¹	\$50 access fee

*Labor charges will be charged in 10-minute increments.

¹ Under ORS 190.050, geographic databases of intergovernmental groups are exempt from disclosure. However, under this policy, LCOG will make its geospatial data available on an as-is without warranty basis on a password protected file transfer web page. LCOG will only release geospatial data collected from member organizations with their consent.

3. If the requestor was required to make a deposit, fees will be debited against that deposit. If the fees are less than the deposit, the COG will provide the records along with a refund of the deposit, less the fee. If the deposit is insufficient to cover the entire costs of completing the public records request, or the requestor was not required to pay a deposit the COG will generate an invoice for the unpaid costs of completing the public records request. The requestor must pay the amount owing before the COG will deliver the requested records or make them available for viewing.

Home Care Workers

If a home care worker requests copies of their pay stubs, staff will give them with a sheet of instructions for obtaining those copies for verification of employment or verification of income. Those instructions say they may contact the Oregon Home Care Commission by calling 1-877-624-6080, emailing OHCC.CustomerRelations@dhsosha.state.or.us, or filling out a form online on the OHCC Customer Service website at <https://forms.office.com/g/untNXn1Vmi>. Under Select Service or Request Type, they are to select “Other services/questions.” If they would like paper copies of their pay stubs from LCOG for any other reason, they need to fill out a Request for Public Records form (see Appendix A), and a fee will be assessed by the Public Information Officer.

Fee Waivers

Requests for fee waivers or reduced fees must be made in writing to LCOG contact address listed above. The Executive Director of LCOG may decide whether to furnish copies without charge or at a substantially reduced fee only if providing the records for free or at a reduced cost is a direct benefit to member organizations or is in the general public interest.

Nothing in this policy prevents LCOG from providing programs, services, documents, or materials for free or at a reduced cost to member entities as a benefit of membership.

Copyrighted Material

If the COG maintains public records containing copyrighted material, the COG will permit the person making the request to inspect the copyrighted material, and may allow limited copying of such material if allowed under Federal copyright law. The COG may require the requestor to obtain written consent from the copyright holder or an opinion from the person’s legal counsel before allowing copying of such materials.

Appendices - APPENDIX A: Records Request Form



Request for Public Records

The following is to be filled out by the requestor and turned in to LCOG staff:

Request Date: _____

Name: _____

Phone Number: _____

Email Address: _____

Mailing Address: _____

Information Requested:

If a request results in less than 10 minutes of staff time AND less than \$5.00 of production costs, fees will be waived.

Note to LCOG Staff – Please return this form to Laura Campbell, LCOG Public Information Officer, at Park Place Building by inter-office mail or email it to lcampbell@lco.org.

DO NOT WRITE BELOW THIS LINE.

The following is to be filled out by the Public Information Officer:

LCOG Public Records Fee Schedule (Check the appropriate boxes):

- Photocopies
 - Standard B&W (\$0.06 per page) ___Number of Pages
 - Color (\$0.15 per page) ___Number of Pages

- Mailing Lists
 - CD (\$40) ___Number of CDs
 - Printed Labels (\$40 + \$0.15 per label) ___Fee plus number of labels
 - Printed List (\$40) ___Number of Lists

Geospatial Data¹ (\$50 access fee)

¹ Under ORS 190.050, geographic databases of intergovernmental groups are exempt from disclosure. However, under this policy, LCOG will make its geospatial data available on an as-is without warranty basis on a password protected file transfer web page. LCOG will only release geospatial data collected from member organizations with their consent.

Labor Charges

- Administrative Staff (\$38 per hour) Est. Staff Time: _____
- Technical Staff (\$95 per hour) Est. Staff Time: _____
- Legal and Management Level Staff (\$115 per hour) Est. Staff Time: _____

Estimated Staff Time: _____ Cost: _____

Estimated Reproduction Cost: _____ Total Estimated Cost: _____

Date Completed: _____

Total Cost: _____

Provided Records By:

- Will Call
- Email
- In Person
- Mail

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- Charges for the time spent by LCOG staff to locate the requested public records, to review the records in order to determine whether any requested records are exempt from disclosure, to segregate exempt records, to supervise the requestor's inspection of original documents, to copy records, to certify records as true copies, and to send records by special or overnight methods such as express mail or overnight delivery;
- A per-page charge for photocopies of requested records; and
- A per-item charge for providing CDs, audiotapes, or other electronic copies of requested records.

See LCOG's Public Records Policy for more information.