

PUBLIC RECORDS REQUESTS

The Port of Pend Oreille (Port), dba Pend Oreille Valley Railroad (POVA), with its offices located at 1981 Black Road, Usk, Washington, telephone number 509-445-1090, in compliance with RCW 42.56 *et seq.* and WAC 44-14 *et seq.* hereby adopts the following policy regarding availability for inspection and copying nonexempt public records.

The purpose of these rules is to establish the procedures the Port will follow in order to provide full access to non-exempt public records in a timely manner. These rules provide information to persons wishing to request access to public records of the Port and establish processes for both requestors and the Port staff that are designated to assist members of the public in obtaining such access. At the same time this policy is designed to protect public records from damage or disorganization and to prevent excessive interference with other essential functions of the Port.

Consistent with RCW 42.56.080, the Port shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection or copying would violate any statute which exempts or prohibits disclosure of specific information or records to certain persons. The Port shall further provide timely action, provide full assistance with requests, and make records promptly available within the restrictions of staff and work requirements.

Public Records Officer: The Port of Pend Oreille Board of Commissioners appoints the Executive Director to act in the capacity of the Public Records Officer.

Records Index: Consistent with RCW 42.56.260 the Port of Pend Oreille Board of Commissioners maintain the following: 1). The Port of Pend Oreille Board of Commissioners finds that it would be unduly burdensome for Port staff to index each and every of the many varied Port records, given the range of Port activities, the limited staffing levels maintained, and/or the fact that a number of items referenced in RCW 42.56.260 are not generated or rendered by the Port; and 2). The Port of Pend Oreille Board of Commissioners finds that the creation of a single index providing the intricate detail described in RCW 42.56.260 would interfere with Port operations in that it would take an inordinate amount of staff time to develop and maintain; and 3). Port staff is to maintain file-maintenance systems that enable staff to operate efficiently and effectively in providing service to the shippers of the railroad and the general public.

Organization 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. A requestor shall not take Port records from the Port offices.

Making a request for public records: Any person wishing to inspect or be provided a copy of public records of the Port shall make the request in writing to the Executive Director on the current Public Records Request Form which is available at the Port office or on the Port's website and shall include the following information:

- Name of requestor
- Address of requestor
- Other contact information including telephone number and/or email address
- The date of the request.
- Nature of the request.
- A reference or identification of the public record so it can be easily identified and located. A request for “information” in general is not an identifiable record.
- Purpose of the request (RCW 42.56.270/42.56.080). If the request is for a list of individuals the Port is not authorized to provide public records consisting of a list of individuals for commercial use (RCW 42.56.070). Requestors will be required to sign that records or information obtained will not be used for any commercial purpose
- The Port reserves the right to seek information to allow it to determine if another statute prohibits disclosure

The Port is not required to produce records that do not already exist.

Public Records Requests may be made in person, mailed to the Port at 1981 Black Road, Usk, WA. 99180, or emailed to pova@povarr.com with Public Records Request in the subject line of the email. If an individual orally makes a Public Records Request, this request must be confirmed in writing.

Acknowledgement of receipt of request: The Executive Director, or his/her designee, within five (5) business days of receipt of request shall do one or more of the following:

- Acknowledge the request as received and provide an estimated date of response.
- Make the records available for inspection.
- If copies are requested provide requestor with the cost of copies.
- Once payment has been received send copies to the requestor.
- Provide a reasonable estimate of when records will be available (this estimate may be changed by the Port by communicating with the requestor that additional time is required to fulfill the request based on specified criteria); or,
- If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Based upon clarification the Executive Director may revise the estimate of when records will be available; or,
- Provide large and/or detailed requests in installments.
- Deny the request in whole or in part.

Protecting the rights of others: In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the Executive Director may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other people to seek an order from a court to prevent or limit the disclosure. The notice to the affected person may include a copy of the request.

Records exempt from disclosure: If the Port believes that a record is exempt from disclosure and should be withheld, in whole or in part, the Executive Director will state the specific exemption and provide a brief explanation of why the record or portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Executive Director will redact the exempt portion(s), provide the nonexempt portions, and indicate to the requestor why portion(s) of the record are being redacted.

Hours of Inspection: Public records are available for inspection and copying during normal business hours of the Port of Pend Oreille, which are Monday through Friday from 6:00 a.m. until 2:30 p.m.,

excluding legal holidays. Records must be inspected at the offices of the Port. Hours for inspections may be limited due to staffing availability.

Inspection of records: The Port shall provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble, mark, or alter any document. The requestor shall indicate which documents he or she wishes the Port to copy. The Port will provide the requestor with the cost for the copy. After payment is received, the Port will send the requestor the copy. Any inspection of documents must be conducted in the presence of the Executive Director or his/her designee.

The requestor must claim or review the assembled records within thirty days of the Port's notification to him or her that the records are available for inspection or copying. The Port will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the Port to make arrangements to claim or review the records. If the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Port may close the request and refile the assembled records.

Inspection times can be broken down into reasonable segments. However, inspection times cannot be broken down into unreasonable segments to either harass the Port or delay access to the timely inspection of records.

Providing records in installments: When the request is for a large number of records, the Executive Director may 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 days, the requestor fails to inspect the entire set of records or one or more of the installments, the Executive Director may stop searching for the remaining records and close the request.

Completion of inspection: When the inspection of the requested records is complete and all requested copies are provided, the Executive Director will indicate that the Port has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

Closing withdrawn or abandoned request: When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Port has closed the request.

Later discovered documents: If, after the Port has informed the requestor that it has provided all available records, the Port becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Requestor responsibilities: A requestor must give the Port a reasonable notice that the request is being made pursuant to the Act. A requestor will not submit a "stealth" request which is buried in another document in an attempt to trick the agency into not responding (WAC 44-14),

A requestor must request an "identifiable record" before the Port can respond to it.

Cost for copies: If the requestor wishes to have copies made, he/she shall pay 15 cents per page plus current sales tax for each 8.5 x 11 black and white copy requested. The charge for non-standard size items, color copies, blueprint copies, and other specialized services will be charged to the requestor

at actual cost plus any mileage fees that may be associated with these services, including those items unable to be printed or copied by the Port due to limitations of Port equipment.. In addition, the Port will charge for the actual cost associated with the copying of public records including staff time spent making the copies. For mailed copies the Port shall charge the actual cost of the postage. Payment shall be made in advance of the Port mailing the copies.

If requests require the use of expertise to prepare data compilation or customized services that are otherwise not used by the Port, the Port is permitted to charge for all services provided by a third party. The Port shall advise the requestor of this third-party requirement and provide an estimate of the charges in advance; requestor shall make a deposit of up to 10% of the estimated additional charges in advance.

Costs for electronic records: The cost to be charged to the requestor for public records that are copied to a flash drive is established at the current cost of the flash drive plus sales tax. The Port will not accept flash drives provided by the requestor.

Payment: Payment may be made by cash, check, or money order to the Port of Pend Oreille.

Preserving requested records: If a requested record is scheduled shortly for destruction, and the Port receives a public records request, the record cannot be destroyed until the request is resolved (RCW 42.17.290 / 42.56.100). Once the request has been closed, the Port may destroy the requested records.

Exemptions: .

The Public Records Act (RCW 42.56 *et seq.*) provides that certain public records are exempt from public inspection or disclosure.

To protect information that partially meets an exemption under federal or state law, such exempt information shall be deleted in a manner which prohibits the requestor from identifying that data.

The following records of the Port may be exempt, in whole or in part, from disclosure. The Port reserves the right to determine whether any other requested information is partially or wholly exempt from inspection under Federal and/or State law. Justification for redacted or denied information will be provided in writing to the requesting party.

The following records have been identified from disclosure:

- Commercial Purposes- The Port shall not give, sell, or provide access to lists of individuals requested for commercial, or profit-expecting purposes or activities.
- Attorney-Client privileged documents.
- Self-insurance reserve documents
- Real Estate appraisals acquired for the Port until such time that the property has been purchased or the transaction abandoned.
- Financial, commercial, and proprietary information that are exempt as enumerated in RCW 42.56.270
- Transient notes which are not considered official records and are not kept as official business of the Port, as well as preliminary drafts, notes, recommendations, and intra[agency memorandums as defined in RCW 42.56.280.
- Personal information contained in the Personnel files of Port employees, elected officials, volunteers to the extent allowed by law which could violate an individual's right to privacy and other personal information as enumerated in RCW 42.56.230.
- Records that contain personally identifying information about an individual's religious beliefs or practices.

- Employment and licensing information that are exempt as enumerated in RCW 42.56.250.
- Records for an active litigation or controversy in cases pending in superior courts to which the agency is a party, but which records would not be available to another party under the rules of pretrial discovery.
- Bridge and/or track information which is prohibited by federal law from being provided.
- The Port does not conduct official business through text messages. Text messages may be deleted by the user in a timely manner. (See Policy 4006)
- The Port does not archive voice mail messages. Messages are deleted as received and, if required, responded to.

Review of denials of public records: Any person who objects to the initial denial or partial denial of a records request may petition in writing to the Executive Director for a review of that decision. Request for reconsideration must be received by the Executive Director within 15 calendar days. The request for reconsideration shall include a copy of, or must reasonably identify, the written statement by the Executive Director denying the request.

The Executive Director shall promptly provide the petition and any other relevant information to the Port of Pend Oreille Board of Commissioners and/or legal counsel. The Board and/or legal counsel will immediately consider the petition and either affirm or reverse the denial within five (5) business days following the Port's receipt of the petition, or within such other time as the Port and the requestor mutually agree to. Due to the possibility of not being able to arrange a meeting with a quorum within the five-day time limit the Port reserves the right to have the decision reviewed independently by each Board member by telephone with the Executive Director to reach an independent consensus of the Board.

Disclaimer of Liability: As provided for in the Public Records Act, neither the Port nor any officer, employee, official or custodian of the Port shall be held 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 and procedure.

Policy 4001 is Revised and Adopted this 16th day of February 2024 by a vote of 3 in favor and 0 opposed.

**Port of Pend Oreille
Board of Commissioners**



Ryan Kiss, Chair



Keith Peterson, Vice Chair

ATTEST:


Kelly J. Driver, Executive Director



Kimberly Gentle, Secretary

References:

- Port Policy 4006

- RCW 42.17.250
- RCW 42.17.260
- RCW 42.56 *et seq.* – Public Records Act
 - RCW 42.56.070
 - RCW 42.56.080
 - RCW 42.56.10
 - RCW 42.56.210
 - RCW 42.56.230
 - RCW 42.56.235
 - RCW 42.56.240
 - RCW 42.56.250
 - RCW 42.56.260
 - RCW 42.56.270
 - RCW 42.56.280
 - RCW 42.56.290
 - RCW 42.56.300
 - RCW 42.56.420

- WAC 44-14 *et seq.*
 - WAC 44-14-02001
 - WAC 308-10-042
 - WAC 308-10-30

**PORT OF PEND OREILLE
PUBLIC RECORDS REQUEST FORM**

Please complete and sign Section A. Return form via U.S. Mail, private carrier, in-person, to: Port of Pend Oreille, 1981 Black Road, Usk, WA. 99180. Email requests must be made to pova@povarr.com and must include the words "Public Records Request" in the subject line. The Port is not liable for late or misdirected mail by the U.S. Mail service or private carrier nor is the Port liable for misdirected or undelivered email requests. Hand deliveries are accepted in-person only at the Port's main office and shall not be deemed as received if handed delivered to any other location.

SECTION A – PUBLIC RECORDS REQUEST INFORMATION:

Requestor Name: _____ Date of request: _____
(Printed)

Phone number: _____ Email Address: _____

Mailing Address: _____

This request is to: ___ Inspect and/or ___ Receive a ___ hard copy and/or ___ flash drive of the information as described below.

If requesting copies, what format would you like to receive them:

___ Receive Electronically (email) (if available): ___ Send Hard Copy or Flash Drive via USPS/UPS/FedEx.

___ Via email ___ Hard copy or ___ Flash Drive ___ Pick up in Person

Description of documents requested (please provide sufficient detail to permit documents to be located)

I certify that if the Public Records Request involves lists of individuals, the information will not be used for commercial or profit-expecting purposes or activities.

Signature _____ Date: _____

SECTION B: (For Port Use ONLY)

_____ Request Granted _____ Record Withheld _____ Record Withheld In Part

If withheld, in whole or in part, note the applicable exemption and why the information is being redacted or withheld, in whole or in part. _____

Date of Response: _____ Time: _____

Request was received: _____ In-person _____ US Mail _____ Via Private Carrier _____ Via Email

Date and Time Received: _____

Requested additional information: _____

Copied: _____ Pages (Hard copies) _____ Pages Scanned: _____

Specialized Services required (explain- include potential costs) _____

Staff time spent: _____ Copying _____ Scanning _____
(Time is in 15-minute segments.)

Reviewed/Processed Exemptions and/or Redactions: _____

Third Party Notifications Made (if necessary):

Payment Received: _____ (date) Amount: \$ _____

Closing Letter: _____

Comments: _____

