



DMA Policy: 67010-3

Name: PUBLIC RECORDS REQUEST

**Reference: Art II, § 9 of the Montana Constitution
2-6-102, MCA; 2-6-110, MCA;**

Approval Signature: _____

Effective Date: JANUARY 15, 2013

I. Purpose

The purpose of this policy is to ensure consistent response to public records requests, whether in hard copy or electronic form; consistent fees; and protection of confidential information.

This policy does not override a right to privacy or matters of individual or public safety provided by the Montana Constitution, statutes, and rules addressing confidentiality, or other rulings addressing privacy and safety protections.

II. Scope

This policy is discretionary for agencies administratively attached to the Department. Contact your supervisor or division administrator if you have questions.

III. Processing Public Records Requests

- A. The Department will provide access to and/or copying of unprotected Department records.
- B. All public records requests made as a "Freedom of Information Request (FOIA)" or "Right-to Know Request" that are outside the normal course of business must be sent to the Director's Office for review. If in doubt, consult the Director's Office.
- C. All requests must be in writing and the requestor must provide a physical address. Names of individuals requesting public records are public information.
- D. Most public records requests require legal review. The department will request reimbursement for actual cost paid for legal review.
- E. The requestor must agree in writing to the estimated cost prior to work on the request starting.

If the costs are projected to exceed the estimated cost, the requestor must agree in writing to pay the new estimated cost before work continues.

Payment for records requests must be received by the Department and the check cleared prior to the release of the information.

IV. Protection of Records

The Department must maintain the integrity of original records. If requested records might be altered, stolen, or are irreplaceable, Department staff must supervise (no fee associated) the examination and copying of the records by the requestor.

V. Protection of Privacy and Safety

The Department will provide access to and/or copying of unprotected Department records. Records and materials that are constitutionally protected from disclosure are not available to the public ([2-6-102](#), MCA). This is information where there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets ([30-14-402\(4\)](#), MCA) and matters related to individual or public safety.

VI. Covered Charges and Actual Costs

- A. The Department may charge the requestor for filling public records requests ([2-6-102\(2\)](#) and [2-6-110\(2\)](#), MCA). These charges include, but are not limited to, copying of electronic or paper records; research and analysis; services required of the State Information Technology Services Division (SITSD) including e-mail restores; and legal fees.
- B. The Department must recover expenses based on the actual cost of filling the public records request.
- C. Attachment A contains the Department's fee schedule for public records requests.

VII. Tracking and Recording Time and Expenses

Employees must report all time and expenses associated with public records requests to the Director's Office.

Employees should use the FOI - MT Right to Know timesheet code to record time spent filling public records requests.

VIII. Cross-Reference Guide

The following references contain provisions that relate to this policy; however, other laws, rules, or policies may apply.

- A. [Title 2, Chapter 6, MCA](#), Public Records Generally
- B. [30-14-402\(4\)](#), MCA
- B. Constitution of Montana, Article II, [Sections 9](#) and [10](#)

Attachment A - Fee Schedule

Photocopying Charges

Per page	\$0.35. (Staff time spent on copying is included in the per-page charge.)
Records recalled from offsite storage	Actual cost
Staff time to prepare materials for copying	\$15.92 per hour ¹
If the request is for an extraordinarily large volume of printed material, the Department may have copies made by Print and Mail Services.	Actual cost
If appropriate, a requesting party may bring a copier, scanner, or personal computer onsite to make copies.	No charge

Electronic Media Copies

Staff time for copying electronic files	\$15.92 per hour after first half hour ¹
Electronic media	Actual cost
Mainframe and mid-tier processing charges, including processing time, transmission time, and report writing charges	Actual cost

Legal Review

Legal review and/or redaction of information	Actual Cost
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Other Rates

Research and/or analysis whether involving paper or electronic records	\$25.31 per hour after first half hour ²
E-mail restore	At cost per rate schedule. See http://itsdservicecatalog.mt.gov/default.mcpX
Other State Information Technology Services Division services	At cost per rate schedule. See http://itsdservicecatalog.mt.gov/default.mcpX

¹Based on mid-point 2012 salary survey for Band 3 Administrative Assistant

²Based on mid-point 2012 salary survey for Band 6 Management Analyst