

**DEPARTMENT OF ADMINISTRATION
PUBLIC RECORDS REQUEST POLICY AND FEE SCHEDULE**

I. Purpose

The purpose of this policy is to ensure consistent responses to all public records requests; consistent fees are charged; and confidential information is protected.

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, division administrator, or the Department's legal counsel if you have questions.

III. Processing Public Records Requests

- A. The Department shall 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" shall be sent to the Director's Office for review.
- 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 nature of the request and the volume of work will be factors in deciding whether to charge legal fees.

Department legal counsel may add a disclaimer to the release of information.
- E. The requestor must pay the estimated cost prior to the Department beginning work on the request.

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

Checks must clear prior to the release of the information.

IV. Protection of Records

The Department shall 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 shall provide access to and/or copying of unprotected Department records. Records and materials constitutionally protected from disclosure are not available to the public ([2-6-1003](#), MCA). This is information for which an individual privacy interest 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 shall charge the requestor for filling public records requests ([2-6-1006](#) and [2-6-1008](#), MCA). These charges include, but are not limited to, copying electronic or paper records; custom computer programming; research and analysis; services required of the State Information Technology Services Division (SITSD); and legal fees.
- B. As specified in 2-6-1006 (4) and (5), MCA, the department "...is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person....the costs of the customization may be included in the fees charged by the agency."
- C. The Department shall recover expenses based on the actual cost of filling the public records request.
- D. Attachment A contains the Department's fee schedule for public records requests.

VII. Tracking and Recording Time and Expenses

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

VIII. Cross-Reference Guide

The following references contain provisions related 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	\$17.83 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

Electronic Media Copies

Staff time for copying electronic files	\$17.83 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	\$66.26 per hour after first half hour ²
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Other Rates

Custom computer programming by non-SITSD employee	\$31.95 per hour after first half hour ³
Research and/or analysis whether involving paper or electronic records	\$30.38 per hour after first half hour ⁴
E-mail export	\$127.78/hour
Other State Information Technology Services Division services	At cost per rate schedule. See http://sitsdservicecatalog.mt.gov/Services

¹Based on mid-point 2016 salary survey for Band 3 Administrative Assistant

²Based on mid-point 2016 salary survey for Band 8 Attorney

³Based on mid-point 2016 salary survey for Band 6 Computer Programmer

⁴Based on mid-point 2016 salary survey for Band 6 Management Analyst