

METROPOLITAN EXPOSITION-RECREATION COMMISSION

Resolution 94-73

Recommend that the Metropolitan Exposition-Recreation Commission establish procedures for fulfilling requests for inspecting and copying public records under Oregon's Public Records Act.

Whereas, it is necessary to establish clear procedures for filling public requests for information;

BE IT THEREFORE RESOLVED that the Metropolitan Exposition-Recreation Commission finds it necessary to establish Procedures, for inspecting and coping public records and adopts the following procedure:

1. General

Under ORS 192.420 "every person" has a right to inspect any nonexempt public record of a public body in this state. Public records include any writing containing information relating to the conduct of the public's business, prepared, owned, used or retained by a public body regardless of physical form or characteristics. Documents and other information stored electronically in computers or otherwise are public records. Records need not have been prepared originally by the public body to qualify as public records. However, the Public Records Law does not impose on public bodies the duty to create public records, i.e., especially in the area of computer records. A public body is not obligated to manipulate the data in a computer in order to produce documents that would not ordinarily be produced.

Information contained in Metropolitan Exposition-Recreation Commission Computer Information System is exempt from the Public Records Act and the charges specified in this Order are not applicable to requests for CIS data.

There are numerous other types of records that are exempt from the disclosure requirements of the Public Records Act. Departments that wish to assert exemptions from the Act and prohibit inspection and disclosure may do so only with the specific approval of the Office of General Counsel.

II. PROCEDURES FOR FULFILLING REQUESTS FOR PUBLIC RECORDS

A. In compliance with ORS 192.410, MERC shall provide any person with the opportunity to inspect or have copied any public record of MERC during regularly scheduled business hours from 8:30 a.m. to 4:30 p.m., Monday through Friday (except holidays).

- B. The MERC General Manager and each MERC Facility Director shall designate one contact person through which requests for public records are channeled. The contact person can if needed, forward the requests on to other employees who can ultimately fill the request, however, the designated contact person should ensure that all requests are fulfilled in a timely manner in accordance with ORS 192.410, and that the billing and charges for the request (if any) have been completed, and payment received. The name of the contact person should be forwarded to the General Manager and the General Counsel.
- C. Adequate time shall be given to retrieve requested records, not to exceed seven (7) business days without explanation to the requester of delay.
- D. All requests for inspection of public records require the requester to complete an Inspection of Public Records form. The form shall be prepared and distributed by MERC Administration.
- E. Requesters of MERC public records shall conform to the following procedures and guidelines:
 - 1. No public records will be loaned for use outside of MERC offices.
 - 2. Citizens shall inspect records only in the presence of an employee of MERC.
 - 3. No persons shall smoke, drink or eat while inspecting the public records.
 - 4. Requester shall use only a pencil when making notations, shall not mark the public records, and shall maintain the original order of the public records consulted.
 - 5. Requester shall not alter, mutilate or otherwise deface public records.
 - 6. Requester shall not remove from the areas of study any public records or other materials in the official custody of MERC.
- F. Departments seeking permission from the Office of General Counsel to deny access to records based on an authorized exemption must do so immediately upon receipt of a request.

III. CHARGES FOR FULFILLING REQUESTS FOR PUBLIC RECORDS

Public Document Charges for All Other Public Records: Requests for public records shall be charged staff time regardless of whether or not the documents are located and duplicated. Contact persons and those persons filling requests shall inform the requester of the estimated staff time and material charge prior to filling the request.

Requests for public records which are filled by technical/clerical staff will be charged for technical/clerical time plus costs of materials used. Such charges shall be established by MERC Director of Fiscal Operations each fiscal year. Requests which require professional staff will be charged at actual costs of hourly salary or wage, fringe rate, and overhead rate in effect at the time the request is filled, plus material charge. MERC General Manager will distribute copies of the schedule of charges to all departments as they are established or amended.

- A. Clerical time is established as the fourth step salary currently in effect for a MERC secretary plus average fringe rate plus average total overhead rate for MERC.
- B. Material is established as the actual cost of the material and/or the cost of per impression printing or duplicating on a copier. MERC shall review the per impression rate and hourly time charge each fiscal year, and adjust the chargeable rate if necessary. Departments will be notified by memorandum from the General Manager or Director of Fiscal Operations of the current charges in effect.

Paper Copies:

- 1. Single copies (1 page) printed single-or double-sided are free if readily available from MERC files and do not take any longer than five minutes to locate and produce;
- 2. Otherwise, all copies are to be charged for at the current per impression rate established by the MERC plus technical/clerical time spent. A double-sided copy will be considered as two impressions.

Audio Recordings:

- 1. Fees for audio tapes of MERC Public meetings will initially be \$15.00 for the first 90 minute cassette. Additional recordings will be charged based on material used time to research, and duplicate recordings. This fee may be adjusted from time to time by the General Manager to reflect actual costs.

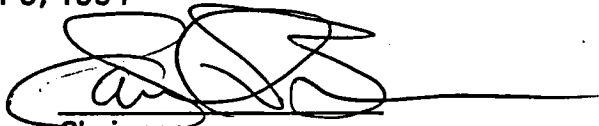
Computer Generated Data:

Requests for data or computer-generated mailing lists shall be charged for on the time and materials basis at the rate for technical/clerical or professional.

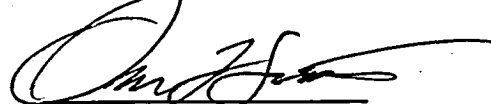
Waiver of Charges for Public Documents:

Department directors may waive charges for public documents produced for other government bodies, and educational institutions. The General Manager or his/her designee may waive charges on written request.

Passed by the Commission on October 9, 1994




Chairman



Secretary-Treasurer

APPROVED AS TO FORM:
Daniel B. Cooper, General Counsel

By: 
Mark B. Williams
Senior Assistant Counsel

MERC STAFF REPORT

Agenda Item/Issue: Approval of MERC Public Records Policy and Procedures

Resolution 94-73

Date: November 9, 1994

Presented By: Patrick LaCrosse

Background and Analysis:

Under ORS 192.420 "every person has a right to inspect any nonexempt public record of a public body in this state". Public records include any writing containing information related to the conduct of the public's business, prepared, owned, used or retained by a public body regardless of physical form or characteristics. Documents and other information stored electronically or otherwise are public records. However, the law does not impose on public bodies the duty to create public records, i.e., especially in the area of computer records.

This policy is required to ensure that all MERC facilities comply with the law and are consistent when such requests are made by the public.

Fiscal Impact:

Fees charged to provide records will be for time and materials as listed in the policy and on the "Request For Public Documents" form. No additional revenue or expense is anticipated.

Recommendation:

Staff recommends that the Metropolitan Exposition-Recreation Commission establish a MERC Public Records Policy, and Procedure.



METROPOLITAN EXPOSITION-RECREATION COMMISSION

REQUEST FOR PUBLIC DOCUMENTS

Date: _____

Name: _____ Print Name Phone Number: _____

Mailing Address: _____
Address City State Zip

List of Records Requested for Review:

Request Filled
 Request Not Filled

Reason Request Not Filled:

Contact Person: _____ Request Filled By: _____

Charges: (Fill in the Blank Boxes)

<small>Hourly Chargeable Rate</small>		<small>Divided by</small>	60 Minutes	X		=	\$	
			<small>Per Copy Charge</small>			X		<small>Materials Charge</small>
							\$	
					<small>Add Time Charge and Materials Charge</small>		<small>Total Charge</small>	\$

Payment Made By: Check Cash Invoice (Accounting will invoice only for amounts over \$25.00)

Forward a copy of this form plus payment, or Request for Invoice to Accounting. Include departmental revenue code below.

Fund	Cost Center	Object Code	Project Code	Sub Code
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Waiver of Charges for Public Documents:

The General Manager or his /her designee may waive charges on written requests.


Fee waived by: _____ Date: _____



METRO

Date: November 22, 1994

To: Pat LaCrosse, Metro ERC General Manager

From: Daniel B. Cooper, General Counsel 

Regarding: PUBLIC RECORDS POLICY ADOPTED BY METRO ERC
Our file: 5.84

I have had a chance to review the policy adopted at Metro ERC's last meeting. The policy adopted by Metro ERC was modeled on the policy adopted by the Metro Executive Officer pursuant to Executive Order No. 51.

Somehow in preparing the resolution for adoption by Metro ERC instead of the reference in Executive Order No. 51 to the exemption authorized by state law for the Regional Land Information System data maintained by the Metro planning department (which is not relevant to Metro ERC since Metro ERC does not maintain such data) a statement was substituted that stated that Metro ERC computer information system information was exempt from disclosure.

Oregon Law provides no such exemption for computer information system information maintained by Metro ERC. I understand that this language was inadvertently included and that you are now aware that there is no such exemption.

It would be appropriate for Metro ERC at the next available opportunity to adopt a resolution amending this Public Records Policy to delete the erroneous reference to the non-existing exemption.

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1129

cc: Mark B. Williams

