



MEMORANDUM

August 10, 2016

To: Kevin Reed, Vice President and General Counsel

From: Lisa Thornton, Public Records Officer

Re: FY16 Annual Report

Public Record Production

The office has processed 309 public record requests, down very slightly from the 332 processed in Fiscal Year 2015. Average response time for requests was 5.5 days, up slightly from FY15 and FY14.

As in years past, the office uses a four-category rating system¹ to measure and track request complexity, with a rating of “one” being the simplest request and “four” the most complex. This rating system evaluates the state of the documents, the number of locations from which they must be gathered, and the complexity of the required redactions. The majority of requests fell into the first and second categories, as documents that the office already possessed or could be gathered from one or two campus locations, and required minimal redactions. As in past years, response times remain consistent with complexity ratings.

The office had 39 requests, 29 of which were category 3 requests that took over 30 days to respond to. Of these 39 requests, 61 percent were made by Commercial organizations, 15 percent by Media, and 20 percent were made by private citizens. A fee was charged for 15 percent of these requests, with an average cost of \$281.36.

The statistics reported here do not calculate in the response time any days elapsing between a request for the payment of estimated fees and when the payment is made, since

¹ Category 1: Office has responsive records prepared to deliver

Category 2: Office can easily and quickly collect records from one or two campus locations; responsive records require minimal redaction

Category 3: Responsive records require redaction and/or the Office of the General Counsel’s advice

Category 4: Office collects records from multiple sources; responsive records are difficult to locate or require forensic reproduction; documents require complex processing and/or redaction; advice required from the Office of the General Counsel

that time period is outside the control of the university. The metric we track most closely is the time between receiving a request (or a clarification of that request), or the time from when requested payment is made until the day the requested records are transmitted. The longest time from payment received to records production was 102 days. This exceptionally long response period occurred in responding to a commercial requester seeking documents related to the award of a contract. The requested records were complex to gather, contributing to a 32 business day delay in records being provided to the office. Since the records were quite technical and covered various stages of a project over several years, staff met with the office that provided records to determine which records were responsive to the request, a process that took 33 days. Finally, because the records contained information that was copyrighted, as well as information that could be considered a trade secret, the office was required to consult with the companies who held the copyright and potential trade secret information. This process took an additional 27 days, largely due to the review request falling during the vacation of necessary parties from the reviewing companies.

The office believes the primary purpose of public records law is to provide transparency in the workings of public entities. The office strives to balance this transparency with the need to protect some types of information submitted to public bodies, including student records, private information, personnel records, and trade secrets. In FY16, 118 requests had records provided to requestors without redactions, 110 were provided with some redactions, 14 requests were denied in full, and 40 were closed for other reasons, most due to being withdrawn by the requester.

Of the 110 requests that were partially redacted, six were redacted in part to comply with FERPA, two involved portions of an employee's faculty record, which are not public records per University of Oregon Policy, 26 were redacted for personal privacy, and 37 were redacted for trade secrets.

The office continues its practice of waiving costs to respond to simple requests, defined as requests made by non-commercial entities that clearly require less than one hour of university staff time to fulfill. In FY16 this practice resulted in 90 percent of requests being fulfilled at no cost to the requestor.

The requestor category that was most likely to be charged for requests was the Commercial category, with 13 requests resulting in a charge for the response. The average cost of responding to these requests was \$164.63.

The News Media were the next most likely to be charged for requests, with four requests being charged for the response. The average cost of responding to these requests was \$341.43. Notably, the Student Media did not pay to receive records responsive to their

requests. One request did result in an estimated cost, however the office worked with the requestor, and ultimately provided records responsive to a narrowed request at no cost to the requestor.

One Private requestor was charged \$26.44 for their request, the remaining 84 requests from Private requestors were fulfilled at no cost to the requestor.

Additional Progress

The office continues to seek out best practices, and to further our relationship with campus and community partners. To this end the office met with colleagues in Washington State to discuss best practices and technological advances, and plans to meet with Oregon colleagues in the fall to continue the discussion.

The office also on-boarded a new staff member, replacing the previous program associate who left for another position at the University.

Challenges

Like many agencies, the office struggles with responding to complex public records requests in as timely a manner as it would like. Part of this is due to the decentralized nature of the university, which continues to hinder the record-gathering process. The office has little control over this portion of the process, and yet a slow response from one or more record-possessing office can seriously delay the production of records to a requestor.

Three departments received the majority of our public records requests. The departments were Athletics, with 17 percent, Capital Construction, also with 17 percent, and the Office of Public Records, with 19 percent. Requests responded to by the Office of Public Records were generally for records responsive to previous public records requests or for information that was already publically available.

Of the 39 requests that took more than 30 days to respond to, 29 of them had a complexity rating of 3. Six had a complexity rating of 2, and four had a complexity rating of 1. This illustrates that the majority of requests that take the longest to respond to are complex, require the office to gather records from multiple offices, or that require extensive review/redaction

The office has also faced an additional challenge due to the high volume of requests from Professor Bill Harbaugh. Prof. Harbaugh made 56 public records requests this year, 45 of which were completed and 11 of which were closed after no response from the requestor for three months. Prof. Harbaugh's requests comprised almost half of the total requests

received from Private requestors, and made more public records requests than the entire News Media category. He was charged \$10,527.64 for responses to nine requests (\$1,169.74 on average), although those requests were not pursued by Prof. Harbaugh. Prof. Harbaugh was given records responsive to his request without charge in 47 cases.

Future Endeavors

During the Secretary of State's Public Records Audit, it was found that agencies retain records beyond the time frames required by retention schedules. This results in agencies possessing too many records, which impacts their ability to respond to requests.

Recognizing this difficulty, the office is in the process of hiring a Records Manager for the University, who will assist with the creation of a new records retention schedule, and work directly with offices to assist with management and storage of records. While this role will primarily exist to assist departments with the appropriate management of their records, the office also hopes that this will help office provide records in a more timely and efficient manner.