

Meeting Date
10/06/2015



AGENDA	
Section	New Business
Item No.	VII.D.2

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval of Public Records Request Fee and Cost Schedules to be attached to AO-47.
DEPT/OFFICE:	County Attorney's Office

**Requested Action:**  
 The County Attorney's Office requests that the Board of County Commissioners approved the Public Records Request Fee and Cost Schedules that will be attached to the revised AO-47, which is entitled "Coordination of Public Records Requests."

**Summary Explanation & Background:**

AO-47 is an Administrative Order detailing directives given to county staff regarding the coordination, and fulfillment, of Public Records Requests pursuant to Chapter 119, Florida Statutes. There are two schedules attached to AO-47, a fee schedule and a cost schedule.

The "Public Records Request Fee Schedule," which states the hourly rates to be charged pursuant to Chapter 119(4)(d), Florida Statutes, and paragraph V.C.7 of the order itself. These rates are for voluminous requests that require extensive use of technology or clerical assistance by county staff. Staff proposes moving to a "professional" rate (\$16.26/hour) and an "administrative" rate (\$9.44/hour) instead of multiple rates based on each employee's pay. The professional rate is calculated as the lowest professional hourly wage County-wide, with "professional" determined by the EEO designation, as shown in the Pay and Classification Plan (updated September 28, 2013). The administrative rate is determined by the lowest clerical rate County-wide, with "clerical" similarly determined by the EEO designation, as shown in the Pay and Classification Plan (updated September 28, 2013). The benefit of having two "set" rates is that County staff will no longer have to determine multiple hourly rates for the multiple people who may work on fulfilling a voluminous request. While current case law allows staff to charge a gross hourly rate (includes salary and cost of benefits) for extensive use of staff time, a net hourly rate (salary alone) was selected for each of the categories in an effort to be more "citizen friendly."

The "Public Records Cost Schedule," which details the costs of different supplies, postage, and copy service costs utilized in fulfilling Public Records Requests. Typically, these are "at cost" items.

**Clerk to the Board Instructions:**

**Exhibits Attached:** AO-47 with Fee and Cost Schedules attached at page 6.

**Contract /Agreement (If attached):** Reviewed by County Attorney    Yes     No     PR

County Manager	Assistant County Manager, Frank Abbate	Department Director / Extension County Attorney/52090
Stockton Whitten	Assistant County Manager, Venetta Valdengo	



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Telephone: (321) 637-2001  
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October 7, 2015

**M E M O R A N D U M**

TO: Stockton Whitten, County Manager

RE: Item VI.D.2., Public Records Request Fee and Cost Schedules to be Attached to AO-47

The Board of County Commissioners, in regular session on October 6, 2015, executed Public Records Request Fee and Cost Schedules that will be attached to the revised AO-47, which is entitled "Coordination of Public Records Requests." Enclosed is the original Public Records Fee Cost Schedules.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

Encl. (1)

cc: County Attorney

**Title: COORDINATION OF PUBLIC RECORDS REQUESTS**

**Number:** AO-47  
 **Cancels:**  
 **Approved:**  
 **Originator:** County Attorney  
 **Review:**

**I. PURPOSE**

Brevard County is committed to the requirements set forth in Chapter 119, Florida Statutes, governing access to public records, also known as the Public Records Law.

The purpose of this Administrative Order is to provide guidelines and procedures for all county administrative personnel, department directors and staff to assure compliance and uniformity with regard to the handling of requests for inspection and copies of public records not exempted by state law.

**II. AUTHORITY**

- A. Chapter 119, Florida Statutes – The Public Records Act
- B. BCC-22, Records Management Program
- C. BCC-30, Cost of Copying Documents for the Public
- D. BCC-33, Social Media Policy

**III. DEFINITIONS**

- A. **Electronic Records** – any data files and databases, word processing files, spreadsheets, digital photos, voice and video recordings, electronically generated or maintained documents relating to county business and any other electronic messages relating to county business, including text messages, tweets, written communication on social networking websites, and email.
- B. **Records Custodian** - an employee appointed by the director of each county department to oversee the management, retention and timely disposition of their records, whether maintained on-site, offsite, in electronic systems or stored at the Records Management Center; and assists in carrying out the requirements of Florida Statute 119.07.
- C. **Records Coordinator** - the individual appointed by the County Attorney to coordinate the responses of the departments to requests for public records that are received.
- D. **Requestor** – the person requesting to inspect and/or receive copies of public records.
- E. **Redacting** – to electronically conceal or manually black out from a copy of an original public record any information deemed confidential or exempt from disclosure by statute.

- F. **Public Records Request Tracking Software** - a software program utilized by County staff and monitored by the appointed Records Coordinator to assist staff in assuring records requests are timely addressed.

#### IV. **WHAT IS A PUBLIC RECORD?**

Section 119.011(1), Florida Statutes, defines “public records” as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by the county.

##### A. **Public records include (but are not limited to):**

1. All paper documents maintained by county employees or county officials, including any archived documents stored in private or public facilities.
2. All Electronic Records relating to county business whether generated on work or home computers, phones, or other electronic devices including, but not limited to, email, text and voice mail.
3. All materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge.
4. Draft documents, whether on paper or electronic, once they have been sent to or circulated to another person or persons.

##### B. **The following are not public records:**

1. Personal emails that do not involve official business of the county.
2. Draft documents that have not been circulated to another person or persons.
3. Personal notes concerning county business unless they are circulated or sent to others or if they were taken with the intention to perpetuate, communicate, or formalize knowledge.

#### V. **RESPONDING TO A PUBLIC RECORDS REQUEST**

##### A. **General Employee Responsibilities**

1. **Notify the department’s Records Custodian of the request.**
2. **Respect the requesting party’s rights under the law**, including his or her right to remain anonymous. A requestor is not required to provide any identifying information, nor is the party required to put a request for public records in writing. The requestor can be asked for contact information, but if the requestor declines to give such information, it cannot be required. Any inquiry after that should be how to contact the requestor or have the requestor contact the employee about payment of any authorized deposits/fees or to pick up the records.

3. **Refer the requestor to a location on Brevard County's website whenever possible.** In cases where the county's website hosts the same records as those requested, such as recordings of board meetings or presentations, providing a link to the specific webpage should be sufficient and may be more convenient and cost-effective for the requestor. **Do not simply provide a link or direction to the website. Take steps to: (1) ensure that the requesting party is able to access the relevant portion of the website; and (2) confirm that the information on the website is fully responsive to the request made.**
4. **Follow approved procedures for processing public records requests, which are outlined in this Administrative Order.**

## **B. DEPARTMENT DIRECTOR RESPONSIBILITIES**

1. **Appoint an employee to be the Records Custodian for the department.**
2. **Support the Records Custodian and other employees in fulfilling requests made and ensure they have appropriate training.** Fulfilling public records requests is a legally required part of the job of every County employee.
3. **Follow approved procedures for processing public records requests, which are outlined in this Administrative Order.**

## **C. RECORDS CUSTODIAN RESPONSIBILITIES**

1. **Be knowledgeable about public records tracking software program.** A user manual for Records Custodians will be made available. It is important that Records Custodians understand how to enter requests into the program so that the County can track, and efficiently fulfill all records requests.
2. **Direct the Requestor to the correct department for the records.** Sometimes, Requestors might approach the wrong department for records. If the records sought are being held by another department, the Requestor should be directed to the appropriate department. **If a record sought has an unknown origin, contact the Records Coordinator.**
3. **Contact the Records Coordinator if a request might include records outside the department.** The Records Coordinator exists to facilitate multi-departmental requests. Do not hesitate to contact the Coordinator for assistance.
4. **Contact the Records Coordinator if a request includes emails.** The Office of the County Attorney and Information Systems are the only two departments with the capacity to comprehensively search county email. As a result, the Record Custodian may have to go to the Office of the County Attorney to review the results of such email searches performed.
5. **Make all non-exempt records available, in their original format, for inspection and/or copying within a reasonable timeframe of the original request. There are many exemptions and the county is required to invoke them when applicable.** If a department is unsure as to whether certain information is exempt under Florida law, contact the County Attorney's Office for clarification.

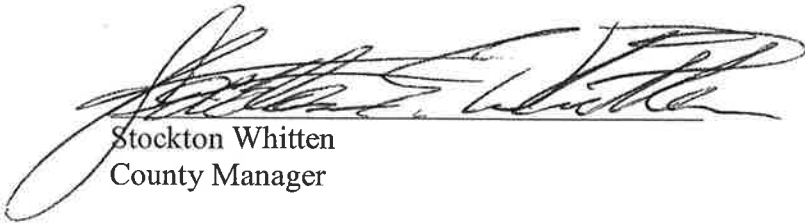
6. **In writing, acknowledge a request has been received and, if needed, clarify the request.** Many requests require clarification. Communicating with the requestor often will result in a more focused request that involves less time and expense to respond.
7. **Follow up on records requests promptly.** When the request is for particular records that are readily available, a best practice is to make them available to the requestor as soon as possible. In other cases, let the requesting party know when the records will be available for inspection, or that extensive research will be required.
8. **Charge requestors for the cost of duplication and for extensive staff time.** Extensive staff time is defined as any time after the first one-half hour that it takes to research, gather or process the public records request, as well as the time spent with the requestor to review the records.
9. **Provide the requesting party with a cost estimate prior to fulfilling his or her request.** This estimate should include the cost of the time required for redacting any exempted information as well as the time spent reviewing emails generated through the IT department.
10. **Refer to the attached *Public Records Request Fee and Cost Schedules* to quote, estimate and invoice for the costs associated with the public records request.**
11. **Collect 50 percent of the fees for the estimated duplication and staff time fees upfront before starting the work to gather or research or duplicate records.** Collect the remaining balance prior to release of the records, or reimburse any amount necessary should the amount collected be more than the actual cost of resources used.
12. **Close any open requests after 30 days with no contact with the requestor.** If a requestor has not been in contact with the department for more than 30 days after an letter /email is sent with deposit information or requesting clarification of the request, the department should close the request. The initial letter/email to the requestor should advise the requestor that if the County does not receive a response within 30 days of the letter/email, it will be assumed that the requestor does not wish to proceed with the request and the request will be considered closed. When closing the request, the Records Custodian should, if possible, send a written communication to the requestor notifying the requestor that the request has been closed. This communication should also inform the requestor that the request can be renewed at any time if desired.
13. **Provide for and supervise all inspections of original or master copies of public records** to prevent damage, loss or alteration.
14. **Maintain a record of the request and its resolution.** Update the public records request tracking program on a regular basis to provide the status of the request until closed by providing the records or by notification to requester that request was closed based on lack of communication or failure to provide deposit after thirty or more days of initial contact from Records Custodian/Coordinator. Status updates would include a summary of contacts between a custodian and requestor that result in a revised request and how it was revised.
15. **Update the public records tracking software to note the location of the County's copy of what was provided in response to the records request.**
16. **Maintain public records in accordance with the dictates of BCC-22.**
17. **Follow approved procedures for processing public records requests, which are outlined in this Administrative Order.**

**VI. COUNTY ATTORNEY SUPPORT FEE**

If the County Attorney's Office, or its appointed Records Coordinator, spends more than five (5) hours with a given department in ensuring a request gets fulfilled, the department will be assessed a \$200/hour fee for the support provided by the County Attorney's Office.

**V. RESERVATION OF AUTHORITY**

The authority to issue and/or revise this Administrative Order is reserved to the County Manager.



Stockton Whitten  
County Manager

10-06-2015  
Date

### Public Records Request Fee Schedule\*

Those seeking copies of public records will be charged only the actual costs of making copies. However, if the nature or volume of the request requires extensive use of technology or clerical assistance by county staff, the county may charge, in addition to actual cost of duplication, an additional special service charge in accordance with Chapter 119(4)(d), Florida Statutes, and paragraph V.C.7 above.

Professional Rate <sup>1</sup>	Administrative Rate <sup>2</sup>
\$16.26/hr	\$9.44/hr

### Public Records Cost Schedule\*

As of the date of this revision of AO-47, the uniform fee for copies to be charged by all departments is as follows, unless otherwise provided by law:

Media	Cost
Paper: First 30 pages per month	Free
Paper: 11x8.5 or less - one-sided	.15
Paper: 11x8.5 or less - two-sided	.20
Paper: 14x8.5 or less - one-sided	.15
Paper: 14x8.5 or less - two-sided	.20
Paper: 11x17	.25
Media Storage Devices (Flash Drives, CDs, DVDs, VHS, etc.)	All actual cost of the media storage device and any associated sleeve/packaging. Actual mailing costs must be charged rather than a flat fee. Mailing costs include jewel case and padded mailing envelope, subtracting the sleeve cost, plus postage.
Postage	Large orders or those to be mailed out of country will be weighed and calculated individually, using <a href="http://www.usps.gov">www.usps.gov</a> for postage rates.
Copy Service Costs	Any unusually large volume of copying that requires the documents to be sent to a copy service for reproduction will be billed to the requestor based on the actual cost to the county.

<sup>1</sup> Professional rate is calculated as the lowest professional rate County-wide, with “professional” determined by the EEO designation, as shown in the Pay and Classification Plan (updated September 28, 2013). Also, the Agriculture and Extension department wages are partially paid by the University of Florida (UF). Accordingly, that department’s pay rate was not considered in making this calculation.

<sup>2</sup> The Administrative rate is determined by the lowest clerical rate County-wide, with “clerical” determined by the EEO designation, as shown in the Pay and Classification Plan (updated September 28, 2013).

\*Fee and Cost Schedules approved by the Board of County Commissioners on \_\_\_\_\_.