

From: [Rob Davis](#)
To: [Public Records Task Force](#)
Subject: Task force comments
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To the task force,

At the height of the recent crisis over unsafe heavy metals pollution in Portland's air, I filed a public records request with the Department of Environmental Quality. This is a routine part of my job as an investigative reporter at The Oregonian.

Under pressure from the governor, the agency swiftly released several thousand emails, which revealed damning inconsistencies in the who-knew-what-when narrative shared with the public until then. The records also showed two state agencies had failed to notify Portland schools about potentially dangerous soil contamination outside a local high school – despite talking daily on conference calls. The department's director resigned days later.

What was unusual about this experience wasn't the headline-worthy revelations. It was that the state provided these emails quickly and for free.

In name and practice, the Oregon Public Records Law offers the false promise that Oregonians are welcome overseers of the agencies their taxes fund. In reality, agencies throughout the state routinely hide behind outlandish fees, lengthy delays and discretionary exemptions that need not be exercised. They do this to avoid the public scrutiny, oversight and accountability that Oregonians deserve.

Take a typical request, recently made of the DEQ. The price tag to search and produce emails with a few keywords? \$750. That's just related to two businesses in a state with thousands. That fee makes me think twice about whether we want those records – and whether it's practical to request others. And it's actually on the low end of estimates I've received. I all-too-often see estimates into the tens of thousands.

Here's the thing. Taxpayers like me have already paid for those records to be created once, by funding the employees who drafted them. The agency will not incur \$750 in extra expense to produce them again. The charge has one effective purpose: To dissuade public scrutiny.

While I'm lucky to have a news organization behind me, most Oregonians aren't so fortunate. I frequently meet disheartened residents from all corners of the state who turn to me for help after asking for records and receiving similarly unaffordable estimates.

For this task force's work to have meaningful impact, it must do far more than create a lone public records advocate. It must:

*** Eliminate the unnecessary and outlandish fees that prevent meaningful public involvement in our government.** Records are not available to the public if they cost hundreds of dollars. Public records should be *public*. They should be free. Eliminate all fee provisions for public records — the public has already paid for them to be created.

*** Ensure the standard turnaround time for requests is measured in hours or days, not weeks or months.**

Create strict statutory mechanisms and allow for citizen law suits with recoverable attorney fees to enforce this. Any successful public records lawsuit should automatically award fees to the requestor.

* **Eliminate the inexplicable morass of exemptions** the state Legislature has allowed to grow like kudzu.

* **Raise agencies' burden of proof for utilizing any exemption.**

Oregon has the opportunity to lead by example and ensure the Public Records Law lives up to the promise inherent in its name. Anything less will leave the state with the same broken law it has today.

ROB DAVIS

Reporter

The Oregonian

503.294.7657

@robwdavis