



Woods Hole, Martha's Vineyard and Nantucket Steamship Authority

Guidelines for Seeking Access to the Steamship Authority's Public Records

These Guidelines have been prepared to enable persons seeking access to public records in the SSA's custody to make informed requests regarding the availability of such public records electronically or otherwise.

I. Designation of Records Access Officers (RAOs).

The SSA has designated the following persons as its Records Access Officers (RAOs):

1. Sean F. Driscoll, Communications Director
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II. Duties of the SSA's RAOs.

The RAOs shall coordinate the SSA's response to requests for access to public records and shall facilitate the resolution of such requests by the timely and thorough production of public records. Specifically, the RAOs shall:

- A. assist persons seeking public records to identify the records sought;
- B. assist the custodian of records in preserving public records in accordance with all applicable laws, rules, regulations and schedules; and
- C. prepare guidelines, which shall be updated periodically and shall include a list of categories of public records maintained by the SSA, that enable a person seeking

access to public records in the SSA's custody to make informed requests regarding the availability of such public records electronically or otherwise.

III. Requests for Public Records.

- A. A request for public records may be made or delivered to an RAO orally in person, or by hand, or by mail at an RAO's business address, or via electronic mail to an RAO's email address. An oral request for public records will be deemed received on the day it was made, while a written request, regardless of the form of delivery, will be deemed received on the first business day following receipt of the request by an RAO.
- B. Requests for public records should include a reasonable description of the requested records so that an RAO can identify and locate them promptly.
- C. When appropriate, an RAO shall suggest a reasonable modification of the scope of the request or shall offer to assist the requester to modify the scope of the request if doing so would enable the SSA to produce records sought more efficiently and affordably.
- D. An RAO may not require a requester to specify the purpose for a request, except:
 - 1. when the requested records concern information which may be exempt from disclosure pursuant to Mass. G.L. c. 4, § 7, cl. 26th(n);
 - 2. to determine whether the records are requested for a commercial purpose; or
 - 3. to determine whether to grant a request for a fee waiver.

As used in these Guidelines, "commercial purpose" shall mean the sale or resale of any portion of the public record or the use of information from the public record to advance the requester's strategic business interests in a manner that the requester can reasonably expect to make a profit, and shall not include gathering or reporting news or gathering information to promote citizen oversight or further the understanding of the operation or activities of government or for academic, scientific, journalistic or public research or education.

IV. Responses to Requests for Public Records.

- A. Except as otherwise provided in this Section IV and the following Sections V and VI, an RAO shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record, or any segregable portion of a public record, not later than ten business days following the receipt of the request, provided that:
 - 1. the request reasonably describes the public record sought;

2. the public record is within the SSA's possession, custody or control; and
 3. An RAO receives payment of a reasonable fee as set forth in the following Section V.
- B. Subject to this Section IV and the following Sections V and VI, an RAO shall provide the public records to a requester by electronic means unless the record is not available in electronic form or the requester does not have the ability to receive or access the records in a usable electronic form. An RAO shall, to the extent feasible, provide the public record in the requester's preferred format or, in the absence of a preferred format, in a searchable, machine readable format. An RAO shall not be required to create a new public record in order to comply with a request, provided that furnishing a segregable portion of a public record shall not be deemed to be creation of a new record. If the public record requested is available on the SSA's website, an RAO may furnish the public record by providing reasonable assistance in locating the requested record on the website. An electronically produced document submitted to the SSA for use in deliberations by the SSA shall be provided in an electronic format at the time of submission.
- C. If the SSA does not intend to permit inspection or furnish a copy of a requested record, or the magnitude or difficulty of the request, or of multiple requests from the same requester, unduly burdens the SSA's other responsibilities such that the SSA is unable to do so within the 10-business-day timeframe, an RAO shall so inform the requester in writing not later than ten business days after the initial receipt of the request for public records. The written response shall be made via first class or electronic mail and shall:
1. confirm the date of the RAO's receipt of the request;
 2. identify any public records or categories of public records sought that are not within the SSA's possession, custody or control;
 3. identify the agency or municipality that may be in possession, custody or control of the public record sought, if known;
 4. identify any records, categories of records or portions of records that the SSA intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based, provided that nothing in the written response shall limit the SSA's ability to redact or withhold information in accordance with state or federal law;
 5. when a record is being withheld based upon a claim of the attorney-client privilege, include a detailed description of the record, including the names of the author and recipients, and in general terms the subject matter of the withheld information;
 6. identify any public records, categories of records, or portions of records that the SSA intends to produce, and provide a detailed statement describing why the magnitude or difficulty of the request unduly burdens the SSA's

other responsibilities and therefore requires additional time to produce the public records sought;

7. identify a reasonable timeframe in which the SSA shall produce the public records sought; provided that the timeframe shall not exceed fifteen business days following the initial receipt of the request for public records; and provided further that the requester may voluntarily agree to a response date beyond that fifteen-business-day timeframe;
8. suggest a reasonable modification of the scope of the request or offer to assist the requester to modify the scope of the request if doing so would enable the SSA to produce records sought more efficiently and affordably;
9. include an itemized, good faith estimate of any fees that may be charged to produce the records; and
10. include a statement informing the requester of the right of appeal to the Supervisor of Public Records under Mass. G.L. c. 66, § 10A(a), and the right to seek judicial review of an unfavorable decision by commencing a civil action in the Superior Court under Mass. G.L. c. 66, § 10A(c).

- D. If the magnitude or difficulty of a request, or the receipt of multiple requests from the same requester, unduly burdens the SSA's other responsibilities such that the SSA is unable to complete the request within the time set forth in Section IV(C) (7), an RAO may, as soon as practical and within twenty business days after initial receipt of the request, or within ten business days after receipt of a determination by the Supervisor of Public Records that the requested record constitutes a public record, petition the Supervisor of Public Records for an extension of the time for the SSA to furnish copies of the requested record, or any portion of the requested record, that the SSA has within its possession, custody or control and intends to furnish. An RAO shall, upon submitting the petition to the Supervisor of Public Records, furnish a copy of the petition to the requester. Such petitions filed by the RAO do not affect the RAO's obligation to provide an initial response to a requester within ten business days after receipt of a request for public records.

V. Fees for the Production of Public Records.

- A. An RAO may assess a reasonable fee for the production of a public record except those records that are freely available for public inspection, and an RAO may delay provision of records until all fees related to such request are paid in full by the person seeking access to the requested records. If fees are being assessed, an RAO shall provide a written, itemized, good faith estimate of any fees that may be charged to produce the records prior to complying with a public records request within ten business days. The reasonable fee shall not exceed the actual cost of reproducing the record. Unless expressly provided for otherwise, the fee shall be determined in accordance with the following:
1. the actual cost of any storage device or material provided to a person in response to a request for public records may be included as part of the fee,

but the fee assessed for standard black and white paper copies or printouts of records shall not exceed five cents (5¢) per page, for both single and double-sided black and white copies or printouts;

2. if the SSA is required to devote more than four hours of employee time to search for, compile, segregate, redact or reproduce the record or records requested, an RAO may also include as part of the fee an hourly rate equal to or less than the hourly rate attributed to the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact or reproduce a record requested, but the fee:
 - (a) shall not be more than \$25 per hour;
 - (b) shall not be assessed for the first four hours of work performed; and
 - (c) shall not be assessed for time spent segregating or redacting records unless such segregation or redaction is required by law or approved by the Supervisor of Public Records under Mass. G.L. c. 66, § 10(d)(iv);
3. for copies of public records not susceptible to ordinary means of reproduction, the actual cost incurred in providing a copy may be assessed;
4. An RAO may assess the actual cost of postage to mail copies of public records, provided that the requester specifically requests that the records be mailed or is unable to receive copies in person and the RAO charges the lowest cost available for such mailings, at the discretion of the requester.

B. As used in these Guidelines:

1. “employee time” means time required by employees or necessary vendors, including legal counsel, technology and payroll consultants, or others as needed by the SSA;
2. “redact” means to delete, or otherwise expurgate from non-exempt material that part of a public record that is exempt from disclosure under Mass. G.L. c. 4, § 7, cl. 26th or other legally applicable privileges;
3. “search time” means the time needed to locate and identify, pull from the files, copy and reshelve or refile a public records, but does not include the time expended to create the original record; and
4. “segregation time” means the time used to review records to determine what portions are subject to redaction or withholding under Mass. G. L. c. 4, § 7, cl. 26th or other legally applicable privileges, but does not include time expended to review record for accuracy and correct errors.

C. The SSA may petition the Supervisor of Public Records to approve a request to charge for time spent segregating or redacting if:

1. the request is for a commercial purpose; or

2. the fee represents an actual and good faith representation by the SSA to comply with the request, the fee is necessary such that the request could not have been prudently completed without the redaction or segregation, the amount of the fee is reasonable, and the fee is not designed to limit, deter or prevent access to requested public records;

provided that the SSA shall consider the public interest served by limiting the cost of public access to the records, the financial ability of the requester to pay the additional or increased fees and any other relevant extenuating circumstances and, upon submitting such a petition, shall furnish a copy of the petition to the requester. Such a petition by an RAO must be made within ten business days after the receipt of the request for public records and its filing does not affect the RAO's obligation to provide an initial response to a requester within ten business days after receipt of a request for public records.

- D. An RAO may waive or reduce the amount of any fee charged upon a showing that disclosure of a requested record is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester or upon a showing that the requester lacks the financial ability to pay the full amount of the reasonable fee.
- E. An RAO may deny public records requests from a requester who has failed to compensate the SSA for previously produced public records, provided that:
 1. a fee estimate for a previous request had been provided to the requester in compliance with Section V(A) and the request had agreed to pay the previous fee; and
 2. the RAO provides written notification to the requester detailing the reasons behind the denial, including an itemized list of any balances attributed to previously produced records.
- F. An RAO shall not charge a fee for a public record unless the RAO has responded to the requester within ten business days as required by Section IV.

VI. Production of Public Records.

- A. A requester of public records shall be entitled, upon request, to receive one copy of the public record or any desired portion of a public record in hand, by mail, by facsimile or electronically. An RAO shall presume that a requester prefers copies provided in machine-readable electronic form, when electronic form is available, unless the requester specifies an alternative preference.
- B. As an alternative to obtaining copies of records from an RAO, a requester shall be permitted, to the extent feasible and at reasonable times, to:
 1. view and inspect records prior to obtaining copies; and

2. use a personal device such as a camera or portable scanner to copy records.

VII. Public Records on the SSA's Website.

- A. The SSA shall provide on its website electronic copies, accessible in a commonly available electronic format, of the following types of records, provided that the SSA may withhold any record or portion thereof in accordance with state or federal law:
 1. final opinions, decisions, orders or votes from SSA proceedings;
 2. annual reports;
 3. notices of hearings;
 4. winning bids for public contracts;
 5. awards of federal, state and municipal government grants;
 6. minutes of open meetings;
 7. agency budgets; and
 8. any public record information of significant interest that the SSA deems appropriate to post, as determined by the SSA on a case-by-case basis.
- B. The SSA shall post such records as soon as practicable on its website, and the website copies of such records shall not be deemed the record copies for retention purposes.

VIII. Documentation of Public Records Requests.

An RAO shall document each request for public records submitted to the RAO. An RAO shall document:

- A. the nature of the request and the date the request was received;
- B. the date on which a response is provided to the requester;
- C. the date on which a public record is provided to the requester;
- D. the number of hours required to fulfill the request;
- E. fees charged to the person making the request, if any;
- F. petitions submitted under Mass. G.L. c. 66, § 10(d)(iv);
- G. requests appealed under Mass. G.L. c. 66, § 10A;
- H. the time required to comply with Supervisor of Public Records orders under Mass. G.L. c. 66, § 10A; and
- I. the final adjudication of any court proceedings under Mass. G.L. c. 66, § 10A(d).