

Public Records Requests Montana Department of Transportation Response Guidelines

1. **Legal Background.** Article II, § 9 of the Montana Constitution and sections 2-6-102 and 2-6-110, MCA, describe the requirements for responding to public records requests.
2. **Director's Office Involvement.** All public records requests must be sent to the Chief Legal Counsel for review and assignment. The Chief Legal Counsel will consult with the MDT Director's Office on responses, charges, record-keeping etc.
3. **Written Requests.** All requests must be in writing and be from a person with a physical address. Names of individuals requesting public information are public information.
4. **Covered Charges.** Certain costs associated with fulfilling public records requests may be charged to the requestor pursuant to sections 2-6-102(2), 2-6-110(2), and 60-4-206(2), MCA. These charges include, but are not limited to:
 - a. custom computer programming;
 - b. research and analysis;
 - c. copying of electronic or paper records;
 - d. e-mail restores
 - e. services required of the State Information Technology Services Division; and
 - f. legal fees
5. **Allowable Rates.** MDT will charge the following rates for the work associated with public records requests after one-half hour of service has been provided unless noted otherwise:
 - a. **Copying**
 - i. Labor rate is based on a Band 3, Administrative Assistant, mid-point of the 2010 salary survey. Current rate is \$14.32 per hour. This is for copying of electronic records.
 - ii. As provided in section 2-6-110, (2)(e), MCA, only the first half hour of copying service is provided at no cost.
 - iii. Cost for a paper copy is \$.35 a page. The one-half hour requirement does not apply to providing paper copies. Any staff time spent on copying is built into the per page charge. In the appropriate case, a requesting party may bring a copier to make copies of paper documents.
 - iv. Actual cost of electronic media, if provided, must be charged.
 - b. **Custom computer programming by non-MDTISD/SITSD employee**

Labor rate is based on a Band 6, Computer Programmer, mid-point of the 2010 salary survey. Current rate is \$24.77 per hour.
 - c. **Research and/or analysis**

Labor rate is based on a Band 6 Management Analyst, mid-point of the 2010 salary survey. Current rate is \$25.48. This rate applies whether the work involves paper or electronic records.

d. E-Mail restore

- i. E-mail restore service rates are described in the State Information Technology Services Division's Service Catalog. See <http://itsdservicecatalog.mt.gov/default.mcpX>
- ii. Current charge for service is \$360.60 per restore.

e. Other State Information Technology Services Division (SITSD) services

- i. Service provided by the staff of SITSD is charged at the rate set in the Service Catalog. See <http://itsdservicecatalog.mt.gov/default.mcpX>.
- ii. The first half hour of work will be charged to the requestor since the division is a cost-recovery organization.

f. Legal Review and/or Redaction of Information

- i. Most public records requests will require legal review.
- ii. It will be unusual for MDT to charge legal fees. The nature of the request and the volume of work will be factors in deciding whether to charge legal fees.
- iii. If legal fees are charged, the rate is based on Band 8 Attorney, mid-point of the 2010 salary survey. Current rate is \$55.38 per hour.

6. Actual not Estimated Costs.

- a. All expenses must be reimbursed based on the actual cost of fulfilling the public records request, not on estimated costs.
- b. Requestor must agree in writing to an estimate prior to work being started.
- c. Requestor must be informed if the fulfillment of the request is projected to exceed the estimated costs and must agree in writing to the new estimate before work continues.

7. Payment in Advance. All payments must be made out to the Montana Department of Transportation, received by the Chief Legal Counsel and the check cleared for payment, prior to the release of the information to the requestor.

8. Disclaimer May be Required. MDT legal counsel may add a disclaimer to the release of information.

9. Tracking time/expenses. All time and expenses associated with public records requests will be tracked by the Chief Legal Counsel's Office.

10. Timesheet Code. Employees should use their overhead timesheet code to record time spent on fulfilling public records request. This code is for information purposes only and does not alter an employee's regular earnings. Call MDT's Legal Services' paralegal at 406-444-9455 to get the current project and agreement codes.

11. Certification. MDT does not certify its public records. Request for special certification must be directed to and arranged by the Chief Legal Counsel.

ADDENDUM TO MDT PUBLIC RECORDS REQUEST PROCEDURE

CURRENT SALARY INFORMATION

Date: July, 2015

The following are the current salary rates for the positions identified in MDT's Public Records Request Procedure:

Administrative Assistant, Band 3	\$15.40/hr
Computer Programmer, Band 6	\$29.52/hr
Management Analyst, Band 6	\$25.63/hr
Attorney, Band 8	\$43.33/hr