



Public Records Requests:

Build on foundation to further align with best practices

January 2018

A Report by the Office of the Auditor

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Knighton Award for Auditing

Audit receives recognition

The Office of the Metro Auditor was the recipient of the “Distinguished Award” for Small Shops by Association of Local Government Auditors (ALGA). The winning audit is entitled “Community Planning and Development Grants: Performance measures and stronger controls needed to ensure results.” Auditors were presented with the award at the ALGA conference in Atlanta, Georgia in May 2017. Knighton Award winners are selected each year by a judging panel of peers and awards are presented at the annual conference.

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MEMORANDUM

January 10, 2018

To: Tom Hughes, Council President
Shirley Craddick, Councilor, District 1
Carlotta Collette, Councilor, District 2
Craig Dirksen, Councilor, District 3
Kathryn Harrington, Councilor, District 4
Sam Chase, Councilor, District 5
Bob Stacey, Councilor, District 6

From: Brian Evans, Metro Auditor

BE

Re: Audit of Public Records Requests

This report covers the audit of public records requests. Access to public records is an important part of government transparency and accountability. The purpose of the audit was to determine if the records request process followed best practices in the areas of proactive disclosure, request tracking, timeliness, fee assessment, and training. The audit was included in the FY2016-17 Audit Schedule.

We found both Metro's initial acknowledgement and completion of public records requests fit within current state requirements for timeliness. Most of the responses we reviewed also fit within new requirements that went into effect in 2018. Since costs could be a barrier for the public to access records, there is a need for consistency and accuracy when it comes to estimates, fees, and waivers. We noted inconsistencies in these areas in a sample of requests we reviewed.

One way Metro could ensure public access and reduce the complications of fulfilling requests is through more proactive disclosure. Proactive disclosure is when a government makes records available before they are requested. We found examples where Metro was already doing this, as well as ways it could expand the practice. For records that were not disclosed proactively, there were other ways to increase efficiency.

We have discussed our findings and recommendations with Scott Robinson, Deputy COO; Rachel Coe, Information Services Director; Becky Shoemaker, Records Officer; Michelle Bellia, Legal Counsel; Ken Begley, Records and Information Analyst; and Pam Welch, Records and Information Analyst. A formal follow-up to this audit will be scheduled within three years. We would like to acknowledge and thank all of the management and staff who assisted us in completing this audit.

Summary

Oregon law requires governments to provide the public access to records and allows agencies to charge fees to requesters. The Secretary of State maintains rules for which records should be kept and for how long. The Legislature passed a bill in 2017 that created new requirements for Metro and other local governments.

Metro's process to handle requests was generally effective and provided a foundation to comply with new regulations. We found both Metro's initial acknowledgement and completion of public records requests fit within current state requirements for timeliness. Most of the responses we reviewed also fit within new requirements that went into effect in 2018.

To identify risk during our audit planning, we recruited volunteers to be "secret shoppers" and make requests to eight Metro departments. This was similar to the tests our office conducted in 2010. While we noted some improvement, there were some potential limitations to the public's access to records. In two cases, the requests were not filled completely. We did not determine why the requests were not fulfilled.

Since costs could be a barrier for the public to access records, there is a need for consistency and accuracy when it comes to estimates, fees, and waivers. We noted inconsistencies in these areas in a sample of requests we reviewed. In a few cases, requesters may have been dissuaded from following through on their requests because of high initial estimates. In other cases, inconsistencies may have resulted in lost revenue. Gaps in Metro's policy and limited training caused the inconsistencies.

One way Metro could ensure public access and avoid the complications of fulfilling records requests is through more proactive disclosure. Proactive disclosure is when a government makes records and information available before it is requested. We found examples where Metro was already doing this, as well as ways it could expand the practice.

For records that were not disclosed proactively, there were other ways Metro could have improved efficiency when responding to requests. Any additional procedures or tasks that were not essential to fulfilling a request meant more hours were spent. These additional hours would have been either an expense to Metro, or to requesters in the form of fees.

Our recommendations focused on updating Metro's policy to: align with changes to state law; designate lead employees to handle requests; increase consistency of estimates, fees and waivers; and provide initial and ongoing training. We also recommended gradually increasing proactive disclosure and evaluating other potential process efficiencies.

Background

In the early 1970s Oregon joined other states to pass laws ensuring public access to government records. States passed these laws in part to rebuild public trust in government following the Watergate scandal. Access to public records is still seen as an important way people can hold their governments accountable.

Given this expectation, it is perhaps not surprising that requests for public records are often linked to controversy. Members of the media may seek public records as they work on an investigative piece or report on a breaking story that could be critical of a public agency. Interested citizens or advocacy groups may request documents as well. For instance, when a popular elephant at the Oregon Zoo died, Metro received more than 10 requests for records from journalists and members of the public.

State rules and regulations control many aspects of how government agencies manage public records and make them available to the public. The Secretary of State maintains rules for which records should be kept and for how long. These rules are codified in what is called a retention schedule.

Oregon requires governments to provide the public access to records and allows agencies to charge fees to requesters. Fees cannot exceed the actual costs incurred by the agency to provide the records. Requesters may ask for a waiver or reductions of fees. To waive fees, agencies must consider whether granting the waiver would serve the public interest. This is called the public interest test.

Following allegations of wrongdoing and the resignation of Oregon's governor in 2015, there were efforts to reform parts of the state's public records law. The Legislature passed several bills related to public records during the 2017 legislative session. One bill created new requirements for Metro and other local governments. Among other things, it set definitive timelines for governments to acknowledge and respond to public records requests. That law went into effect in 2018.

At Metro, responsibility for managing public records and responding to requests is shared among departments. Within the Information Services Department, the Records and Information Management (RIM) program provides training, guidance, and consultation to Metro departments for managing public records. The manager of the RIM program also serves as Metro's Records Officer and is Metro's liaison to the Secretary of State's Archives Division.

RIM developed Metro's public records request policy. The policy requires Metro staff within individual departments to handle requests and notify the Records Officer that a request is underway. Typically this means acknowledging a request, clarifying its scope, and providing the records. In some cases, staff may need to estimate how much time it will take to fulfill the request, collect a deposit, and bill for the request prior to providing the records.

Metro uses electronic records management software. Some of the records in the system are available through a public-facing records portal on Metro's website. The portal allows members of the public to search and find records directly, without assistance from Metro employees.

Metro received about 100 requests per year in fiscal years 2015 and 2016. According to financial data, Metro collected a total of about \$6,000 from fees for public records requests between 2013 and 2016 (about \$1,500 average per year). Metro's goal for public records requests is to "...ensure that all requests for public records are responded to in a timely, thorough, and accurate manner that honors the rights and obligations of Metro and the public." RIM tracks most of Metro's requests, but does not have any performance measures related to public records requests.

As part of an audit of public engagement in 2010, the Office of the Auditor recruited volunteers to make public records requests to five Metro departments. Four of the five departments made an attempt to comply with the request, while one did not. Two of the five requests were not filled. Our office issued a memo to management about these issues at that time. This audit sought to evaluate compliance risks in more detail and see if Metro was prepared for new public records legislation.

Results

Most of Metro's responses were timely

Metro's process to handle requests was generally effective and provided a foundation to comply with new regulations. In all of the cases we reviewed, Metro made attempts to fulfill records requests and in most cases did so in a timely fashion.

However, there were some inconsistencies in how Metro estimated fees and provided waivers to requesters. Inconsistencies could impact people's access to records or negatively affect the agency's reputation. In some cases there could also be a financial impact. By increasing its use of proactive disclosure, Metro could avoid the complications of the records request process. This would increase transparency and save staff time. We also identified other ways to provide records more efficiently.

Quick completion of requests for public records can build public trust since it means the public has been given easier access. We found both Metro's initial acknowledgement and completion of public records requests fit within current state requirements for timeliness.

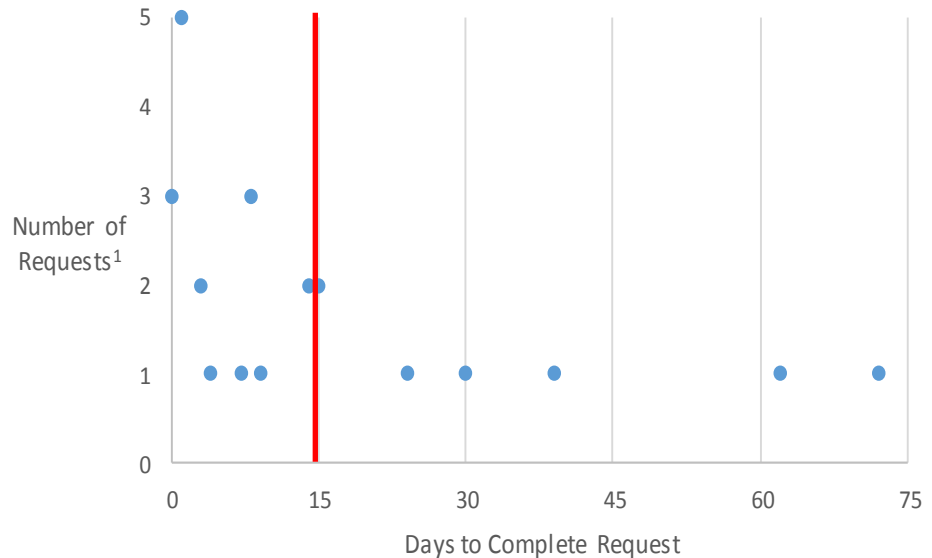
State law in effect during the audit specified governments must acknowledge and complete a written request "as soon as practicable and without unreasonable delay." Completion generally meant providing the records. A request could also be considered complete if the government provided a written cost estimate and a timeline to fulfill the request, if the requester then decided not to pursue the records.

New requirements went into effect in 2018. State law now requires an initial acknowledgement of written requests within five business days and completion of requests within 15 days. Most of the responses we reviewed for this audit also fit within these requirements.

We reviewed a sample of 26 requests from fiscal years 2015 through 2017. Metro gave an initial acknowledgment to almost all of the requests within five business days. In one case, the file did not contain a clear indication of when the request was made, so we could not determine the timeliness of the acknowledgement.

We also assessed how quickly Metro completed requests. Twenty of the 26 requests (80%) were completed within 15 business days. In most cases, this was the time between when Metro received a written request and when Metro provided the records. In four cases, the requester did not follow through on their request, so we measured the time it took Metro to provide a written estimate to fulfill the request.

Exhibit 1 Most requests were completed within the new 15 day requirement



Source: Metro Auditor's Office analysis of a sample public records requests (July 1, 2014 - May 1, 2017)

¹ Totals do not include one of the 26 requests because the file did not contain a request date.

Eleven requests (44%) were fulfilled in five days or less. These requests could be described as “routine.” They were fairly narrow and some were for similar records that had been requested before. Many of the records were also available in Metro’s electronic record system. All of these factors appeared to help provide the records quickly.

It took Metro longer to complete five (20%) of the requests in the sample. These timelines ranged from 24 to 72 business days. The average response time for these requests was 41 days. Reasons appeared to vary. Two requests included reports that had not been finalized yet. In other cases, the requests seemed fairly broad. The quality of records management practices could have played a role for some departments. For example, if records were not well organized or paper-based, it may have taken employees more time to find them.

Metro’s policy did not set a target for timeliness. It stated that acknowledgements should be prompt and responses should be timely. Given the new requirements for timeliness, Metro’s policy may need to be updated to align with state law.

Tests showed
some limitations
to the public’s
access to records

To identify risk during our audit planning, we recruited volunteers to be “secret shoppers” and make requests to eight Metro departments. This was similar to the tests our office conducted in 2010. While we noted some improvement, there were some potential limitations to the public’s access to records.

We asked volunteers to request documents we selected from Metro's record retention schedule. In all cases, the requests were acknowledged, but the tests revealed compliance risks for some departments. In two cases, the requests were not filled completely. This did not appear to comply with state law. We did not determine why the requests were not fulfilled. For instance, it could have been records did not exist, employees could not find them, or some other reason.

In three of the eight secret shopper tests, employees did not follow Metro's procedure to notify the Records Officer when responding or to have the requester fill out a request form. One request was not documented in writing. In these cases, Metro was at higher risk of being out of compliance with its policy.

Using the request form or notifying the Records Officer ensured that requesters were made aware of possible fees. It also alerted the Records Officer that a request was underway. This enabled Metro to monitor compliance with policy and state regulations. The Records Officer also coordinated electronic searches for some records requests. This was intended to ensure Metro provided all relevant records.

Inconsistent estimates and waivers could impact access or Metro's reputation

Since costs could be a barrier for the public to access records, there is a need for consistency and accuracy when it comes to estimates, fees, and waivers. We noted inconsistencies in these areas in the sample of 26 requests we reviewed. Where Metro was inconsistent with waivers or estimates, it could be accused of favoritism. In a few cases, requesters may have been dissuaded from following through on their requests because of high initial estimates. In other cases, inconsistencies may have resulted in lost revenue.

Metro's policy required employees to estimate how much time a request would take to fulfill. If employees thought a request was going to take more than 15 minutes, they were expected to estimate the total amount of time. They then developed a cost estimate to fulfill the request. If that estimate was greater than \$25, Metro needed to inform the requester. The requester needed to agree to pay the final cost before employees could start to fulfill those requests. The policy also allowed Metro to collect a 50% deposit for requests over \$100.

The policy required final fee amounts to be based on the actual amount of time Metro employees spent to fulfill the request. Department directors could waive fees if they determined it was in the public interest to do so.

Estimates and fees

Metro was inconsistent in how it handled some cost estimates. These inconsistencies could have affected the public's access to records. Three of the 26 requests had final fees over \$25, but Metro did not provide initial estimates prior to fulfilling the request. Two of these fees were less than \$50 and did not appear to have an impact on the requesters. However, one was about \$1,200.

In that case, employees searched for and compiled the records after receiving the request. Metro then presented the \$1,200 fee to the requester. The requester was surprised by the fee, and subsequently requested a waiver, which Metro granted.

Initial cost estimates were developed differently in some parts of the organization. The Records Officer or RIM employees prepared estimates for some departments. These estimates were based on individual employees forecasting how much time it would take them to fulfill a particular request. The Oregon Zoo used a different method. It prepared its own estimate from a “fee menu” that may not have taken into account differences between individual requests.

The menu used default amounts based on different aspects of requests. For instance, one manager’s time was added at three hours per animal per year, regardless of the nature of the request. If the request included emails related to animal acquisition, the email portion of the requests was automatically estimated to take four and a half hours per animal. Also in these requests, attorneys, high-level managers, and employees were automatically assigned hours as well. Without the specific parameters of an individual request, it was unclear if this work would be necessary. These default amounts could have increased cost estimates, even if a request was fairly narrow.

In two cases, requesters did not follow through on requests after receiving initial estimates from the Zoo. We did not determine why this was. However, it is possible high initial estimates dissuaded the requesters from continuing to pursue the records. For instance, in one case the estimate was in excess of \$5,000.

It is important that estimates are developed consistently and final fees do not exceed actual costs. Two final fees appeared to be based only on the initial estimate rather than the actual hours spent fulfilling the request. In these cases, the fees were less than \$100. Fees of this size are probably unlikely to dissuade requesters. Nevertheless, it is important to ensure the fees charges are based on actual costs to meet the requirements in state law.

Waivers

Without documentation of its decisions, Metro appeared inconsistent when waiving or reducing fees in several cases. In eight of the 26 requests (31%), Metro appeared to waive some or all of the costs associated with a request. None of the files showed Metro had considered the public interest when granting waivers. In five cases, Metro waived some fees, but there was not documentation showing the requester had asked Metro to do so. In another case, a waiver was requested, but there was not documentation indicating Metro had considered it.

It was unclear exactly why Metro granted the waiver for the \$1,200 fee. In that case, Metro reversed an earlier decision to charge for the request. The reason cited in the file was that Metro had not prepared the requester for the fees. We were later told the waiver was granted because of the delay in

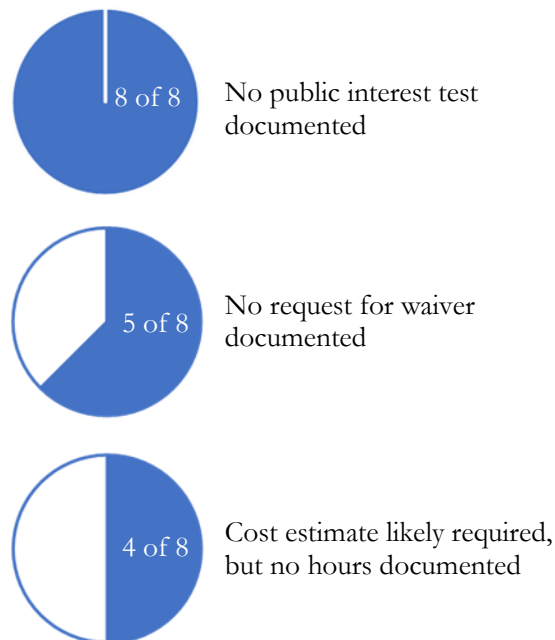
getting the records to the requester. Neither reason would indicate the public interest was a consideration in the decision to waive fees.

Four requests lacked estimations of employee time, but they indicated more than Metro's 15-minute threshold may have been required to fulfill them. For instance, a custom report was prepared or an attorney reviewed several documents.

Per policy, Metro should have developed initial cost estimates for these requests if they took more than 15 minutes to fulfill. In these cases, Metro provided the additional employee time for free. Without estimates, it was unclear how much time or potential fee revenue this would have represented. If Metro chose to offer employee time for free for one requester, but not another, it could be accused of favoritism.

Two of the requests without estimates of employee time were from members of the media. We were told that Metro usually grants fee waivers to the media. This could be because reporters are able to share the information widely, which might satisfy the public interest test. Metro did not charge fees for any of the three media requests we reviewed. However, an initial cost estimate was only given in these cases. The file did not indicate why this request received an estimate.

Exhibit 2 All eight requests involving waivers lacked documentation about Metro's decisions



Source: Metro Auditor's Office analysis of a sample public records requests (July 1, 2014 - May 1, 2017)

Policy gaps and limited training contributed to inconsistencies

Some governments had a structured process for granting waivers and said they retained more documentation of the waiver decisions. Some reported they rarely granted waivers, even when the request came from a member of the media. Guidance from the Oregon Attorney General indicated members of the media were not automatically entitled to fee waivers.

The issues we noted with estimates, fees, and waivers had possible reputational or, in some cases, financial impacts. Where Metro waived fees without a request or did not estimate costs, it could be accused of favoritism. Metro may have also forgone revenue that could have offset its costs to fulfill the requests. Finally, in the two cases where the fees appeared to be based only on estimates, Metro may have overcharged or undercharged requesters, though these were for small amounts.

Gaps in Metro's policy and limited training caused the inconsistencies we identified. The policy allowed department directors to waive fees if they determined it was in the public interest. However, the policy was unclear about how this should be done or what needed to be documented. The policy generally indicated any and all Metro employees were responsible to fulfill requests. It did not specify who should have provided the requester with estimates or calculated final bills.

Metro's practice of fulfilling requests did not align with its policy in some ways. In many of the cases we reviewed, the Records Officer carried out duties assigned to other employees in policy. It is possible that employees did not understand Metro's policy and what it expected of them. Some people we interviewed said employees may not think handling public records requests was part of their job. We heard this was an issue at other local governments as well.

Metro used to have a policy requiring each department to designate lead employees or coordinators to handle records requests. Current policy lacks this requirement. During the audit, we learned some departments had designated employees to handle record requests, while others had not. One of the departments without a clear lead employee did not provide an initial cost estimate when needed. Two other departments without leads did not completely fulfill secret shopper requests.

Designating employees to handle requests is a best practice that other local governments use. In some cases, lead employees were also the primary records employees for their departments or business units. Most of the local governments we reviewed provided ongoing training for lead employees as well as all other employees.

We estimated at least 34 employees were involved in fulfilling requests from the secret shopper tests and the requests in our sample. Less than a third of these employees attended Metro's public records request training. The RIM program offered the training, but Metro's policy did not require employees to attend.

Best practices indicate a need for ongoing training for employees involved in handling public records requests. However, we found only two employees involved in the requests had received training more than once. Ongoing training helps ensure employees stay current on changes to legal and policy requirements.

Finally, Metro's time threshold that required estimates was lower than some other local governments. Fifteen minutes may have been too low to be practical for smaller requests. For instance, some requests could have taken 30 to 45 minutes to fulfill. In these cases, the costs to prepare an estimate, track time, and bill for the request might have outweighed the revenue that could be collected. Given the potential administrative burden, the threshold may have been applied inconsistently for smaller requests. This could have meant some requesters were treated differently than others.

Build on foundation to improve efficiency

Metro had the essential elements in place to handle public records requests. There were ways it could build on this foundation and improve efficiency. Proactively disclosing more records was one such way. There were examples where Metro did this. For records that were not proactively disclosed, there were other ways Metro could fulfill requests more quickly. This could reduce the hours and overall cost of providing public access to records.

More proactive disclosure could increase transparency and reduce workload

One way Metro could ensure public access and avoid the complications of fulfilling records requests is through more proactive disclosure. Proactive disclosure is when a government makes records and information available before it is requested. Since members of the public can find records themselves, it lessens the need to file requests. This increased transparency can help build public trust. Proactive disclosure also eliminates the administrative costs to review requests, determine cost estimates, and bill requesters. We found examples where Metro was already doing this, as well as ways it could expand the practice.

Metro proactively provided similar information as other governments. However, RIM estimated that only about 10 percent of Metro's electronic records were available to the public through its online records portal. The main reason was the security settings in the electronic records system prevented most of them from being accessible. In some cases, this was necessary because some records contained sensitive or confidential information exempt from public disclosure. We did not determine what percentage of Metro's records were exempt.

Metro employees specified the security levels based on their needs when setting up the electronic records in the system. In order to be available to the public, the records needed to be classified as "public" with no additional security settings. Security settings also restricted access for some Metro employees. During the audit, we were told of one example where a set of records was made private in the past due to a concern that may no longer be relevant. Reevaluating these types of decisions may allow Metro to increase public access to records without additional work.

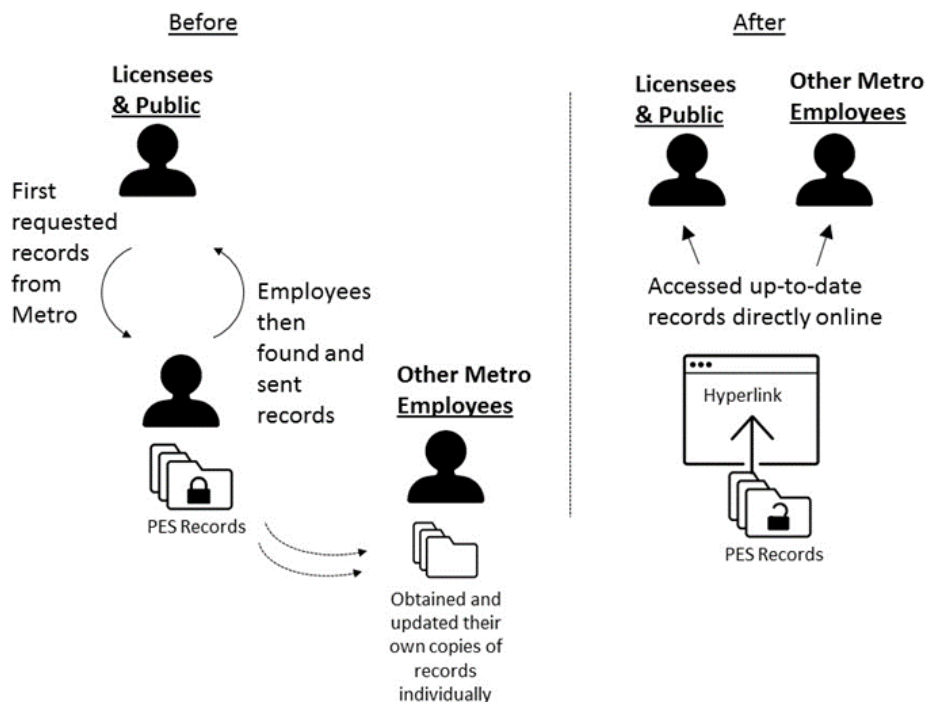
Some departments collaborated with RIM staff to proactively disclose some records through Metro’s website. This made good use of Metro’s investment in the records system. It made records directly available to the public as well as Metro employees. It also meant that when records were updated in the system, they were automatically updated and available on the website.

One example of collaboration was employees from Human Resources working with RIM employees to put job classification records into the system. Once the records were in the system, Metro published hyperlinks to the records on the website. This made the official records easier to find for potential job applicants and other governments.

Another example was a collaboration was between Property and Environmental Services (PES) and RIM. This was related to electronic records of solid waste licenses. Employees made the records public and removed the security settings. They then published links to the records on Metro’s website.

Before this effort, employees had to find the records, and then send them to requesters. PES employees also maintained their own copies of the records for their reference. After the change, the most up to date records were immediately available to solid waste licensees, members of the public, and other Metro employees.

Exhibit 3 Proactive disclosure of PES records simplified access for several stakeholders



Source: Metro Auditor's Office

Metro could anticipate public interest in major events or decisions and proactively disclose records. For instance, following the death of popular animals, Metro is likely to receive requests for reports about the animal's care and health. Similarly, following a land purchase or sale, or the awarding of a large contract, Metro is likely to receive public records requests. Posting such records as a matter of course would increase transparency and could avoid the cost of fulfilling records requests.

Metro provided budgets and quarterly financial reports online. We found other governments provided financial information in more accessible formats. For instance, the City of Portland made detailed expenditure data available on its website. This allowed the public to search down to the level of some individual transactions. Other governments had similar interactive modules for budgets and expenditures. This could have increased transparency and accessibility.

Metro did not regularly use available data to analyze records that had been requested or identify records of interest to the public. Such information could have helped Metro prioritize what information to disclose since posting everything may not be feasible. For instance, data from the online records portal could be analyzed to determine what records had been accessed through it. RIM obtained the data during the audit, but had not analyzed it. Posting frequently-accessed records more directly online would make it easier for the public and Metro employees to find the information.

RIM had also expressed interest in, but had not obtained analytics from Metro's website. An analysis of that information could have helped determine what information or records were sought by members of the public. Frequently searched records could be good candidates for Metro to review security settings and consider proactively disclosing.

The public could get quicker and easier access through proactive disclosure, but Metro employees could also benefit from the practice as well. Instead of having to search for records or maintain their own copies, employees could find them quickly online. Through prioritizing and proactively disclosing records of high interest to the public or employees, Metro can save time and public resources.

**Process
improvement and
clarified
expectations could
increase efficiency**

For records that were not disclosed proactively, there were other ways Metro could have improved efficiency when responding to requests. Any non-essential procedures or tasks meant more hours. These additional hours would be an expense to Metro, or to requesters in the form of fees. Non-essential work also had the potential to slow Metro's response time. Increased fees or slower response times both reduce the public's access to records.

Metro started, but did not finish, an effort aimed in part at improving the public records request process. The effort documented Metro departments' approaches to fulfilling requests. It also identified key questions to resolve.

Since the project was not completed, it may have left inefficiencies in place.

In our audit, we noted variations in how departments handled requests. Some may have involved employees or procedures that were not essential. Either could add employee hours to a request. In one of the 26 requests we reviewed, 13 employees were involved. In another case, seven were involved.

Similarly, best practices state that requesters should not have to communicate with several employees to obtain records. In a few cases from our sample and the secret shopper tests, we noted three or more Metro employees communicated with requesters.

Two local governments that received more requests than Metro used specialized systems to track and coordinate requests. Those systems automatically assigned employees and captured information for handling requests. Such information included all communications with a requester.

These systems also populated data in the tracking system based on each request. An example was response time goals. These were automatically calculated based on the date the request was submitted. The goals helped ensure employees had a deadline to finish their work.

Metro's tracking of requests and its internal coordination used slower methods. The tracking system did not measure how quickly a request was fulfilled. However, a date field was added during the audit which could be used to do so. The tracking system also was not used by most employees involved in records requests. This meant that coordination happened over email or through conversations. This took extra time. There were also redundancies in request tracking and the record keeping was largely paper-based. These factors also added work and may have meant more time than necessary was devoted to fulfilling requests.

As was the case with timeliness, Metro had not fully developed expectations for efficiency or controlling costs when fulfilling public records requests. The policy did not outline expectations in these areas. RIM had goals related to efficiency, but no related performance measures.

One local government policy specified that the lowest wage employee that could fill a request should be the one to do so. While such an approach could have risks, it set a clear expectation related to costs. Similarly, a court ruling questioned the appropriateness of a state agency using high level employees to review requested records for redaction. The court said temporary employees could have been hired to lower the cost to fulfill the records request.

Clarifying expectations related to cost and efficiency as well as finishing the process improvement effort could help Metro ensure the process is efficient. Along with proactive disclosure, being efficient when fulfilling public records requests has dual benefits. It ensures the public access to records at a lower overall cost.

Recommendations

To further align its public records request process with best practices, Metro should:

1. Update its policy to:
 - a. Set expectations for timely responses required by new state law.
 - b. Clarify the criteria and process for determining whether a fee waiver is appropriate.
 - c. Determine whether variations in the methodologies used to calculate fee estimates are appropriate.
 - d. Require each department or program to designate one or more lead employees for public records requests.
 - e. Establish initial and ongoing training requirements.
2. Gradually increase proactive disclosure of public records by:
 - a. Collecting and reviewing information about what records are frequently requested or of high public interest.
 - b. Establishing a process for departments or programs to collaborate with Records and Information Management to periodically assess opportunities to make additional records directly available to the public online.
3. Evaluate potential process efficiencies, including the remaining tasks from the previous process improvement effort.

Scope and methodology

This audit was initiated to see if Metro's process for handling public records requests was effective. The objective was to determine if Metro's public records request process followed best practices in the areas of proactive disclosure, request tracking, timeliness, fee assessment, and training.

To plan the audit, we reviewed state law and administrative rules for public records. We also reviewed Metro's policies and procedures and attended Metro trainings. We reviewed other audits and best practices for handling public records requests. In order to identify areas of risk, we recruited volunteers to make record requests to eight Metro departments. The records requested were selected from Metro's record retention schedule. During the audit, we interviewed employees involved in public records requests from several Metro departments. We also observed parts of the request process.

To evaluate Metro's responses to public records requests, we reviewed a sample of records requests. We analyzed the timeliness of Metro's response and whether Metro's process followed best practices. We also evaluated some aspects of efficiency.

For the review, we randomly selected five percent of requests made each fiscal year between July 1, 2014 and May 1, 2017. We supplemented this with a judgmental sample to include requests with fees, estimates, and waivers as well as requests made to Metro's visitor venues other than the Zoo. The sample included 26 requests.

We also reviewed how other governments handled aspects of the records request process. As part of that work, we interviewed employees who handled public records requests at six other local governments. We also reviewed those and other government websites to identify their proactive disclosure practices.

This audit was included in the FY 2016-17 audit schedule. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Management response

Memo



Date: Tuesday, January 9, 2018
To: Brian Evans, Metro Auditor
From: Rachel Coe, Director, Information Services
Jim Middaugh, Director, Communications
Becky Shoemaker, Records Officer, Information Services
Scott Robinson, Deputy Chief Operating Officer
Subject: Management Response - 2017 Public Records Audit

We would like to thank the Metro Auditor for reviewing Metro's public record request process. Transparency and public trust are at the heart of Metro's core values. Metro not only supports the notion of transparency, but believes it is of the utmost importance as part of our service to the public. As the audit points out, at the time of the review, Metro's practices exceeded the existing standard for providing records to the public. In fact, many of our practices already met the much higher standards for timeliness set forth by the State of Oregon beginning January 1, 2018. However, we recognize that despite well-intentioned efforts to provide information to the public with as much a focus on customer service as possible, a greater degree of consistency remains possible.

Recommendations

To further align its public records request processes with best practices, Metro should:

1. *Update its policy to:*
 - a. *Set expectations for timely responses required by new state law.*
 - b. *Clarify the criteria and process for determining whether a fee waiver is appropriate.*
 - c. *Determine whether variations in the methodologies used to calculate fee estimates are appropriate.*
 - d. *Require each department or program to designate one or more lead employees for public records requests.*
 - e. *Establish initial and ongoing training requirements.*

Management agrees with the first recommendation. During the audit, the policy was already in the process of being updated to reflect the new state requirements effective January 2018. We agree that the process for waiving fees should be more clearly stated and that the reason for waiving the fee should be documented. Management will also review the methodologies for calculating fee estimates. Finally, we will review the structure for fulfilling public record requests and whether identifying a lead employee will provide more responsive and consistent service. Training requirements can then be better determined.

2. *Gradually increase proactive disclosure of public records by:*
 - a. *Collecting and reviewing information about what records are frequently requested or of high public interest.*
 - b. *Establishing a process for departments or programs to collaborate with Records and Information Management to periodically assess opportunities to make additional records directly available to the public online.*

Management agrees with the second recommendation. Metro has been providing an increased number of records on line each year and will continue to look for opportunities to provide an even greater level of transparency.

3. *Evaluate potential process efficiencies, including the remaining tasks from the previous process improvement effort.*

Although Metro's earlier process improvement effort was not yielding the desired results, we will continue to review the overall process to find efficiencies and to better provide information to the public. Again, thank you for reviewing Metro's public record request process. We make every effort to provide timely and accurate information to the public and welcome the opportunity to make that process even better.



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