



## **EXECUTIVE ORDER NO. 16-06**

### **PUBLIC RECORDS**

Upon assuming the office of Governor in February 2015, I offered a package of bills to the Legislative Assembly relating to ethics and governmental accountability. A key component of that package was Senate Bill 9, which mandated that an audit be conducted of state agencies' responses to public records requests with respect to issues of cost, timeliness and procedures. The Legislature approved Senate Bill 9 and I signed it into law on June 15, 2015.

The Secretary of State's Audits Division has conducted the audit required by Senate Bill 9, and on November, 2015, released the audit results in a document entitled "State Agencies Respond Well to Routine Public Records Requests, but Struggle with Complex Requests and Emerging Technologies." (The audit and the audit results are hereinafter referred to collectively as the "Audit.") The Audit examined a sampling of large, medium and small agencies and found that for the most part Oregon state agencies handle routine requests well and struggle with complex requests.

The Audit also revealed other issues that affect agencies' ability to respond to requests such as retention policies, changing technologies and fee structures.

The Audit included specific recommendations, including a recommendation that the Oregon Department of Administrative Services ("DAS") create standardized rates for copying and standardized rates for employee labor among state agencies in order to resolve some of the inconsistency in public records requests fees statewide.

The Audit further recommended that DAS be empowered to provide guidance to agencies regarding communication technologies as they relate to public records.

The Audit found, further, that the variation in responses to public records requests is due, at least in part, to a lack of statewide policies and guidelines with regard to record types created by emergent technology, a standardized fee structure, and automated processes and procedures that make records retention arduous and subjective.

It is also clear that as a result of the rise of modern communications technology, the volume of records subject to search and potential legal review significantly impacts the ability for an agency to respond in a timely manner and causes concern and mistrust to grow in the public's view.



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The purpose of the Government of the State of Oregon is to serve the people of Oregon. State government must therefore be open and transparent. All Oregonians deserve full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.

**NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:**

1. DAS shall develop and promote model public records management policies, approved by the State Archivist, for use by executive branch agencies no later than June 30, 2016. All state agencies shall comply with ORS 192.018 within 90 days of DAS' promotion of model policies by either adopting the DAS policy or modifying it to meet agency-specific records management needs.
2. DAS shall improve accessibility and government transparency by fully implementing all of the recommendations outlined in the SOS audit, which are incorporated herein. DAS shall work with and report to the Governor's office in the implementation of the audit recommendations. This work shall begin immediately. The recommendations that shall be fully implemented include, but are not limited to:
  - a. Streamlining and standardizing state agency processes and procedures regarding responses to public records requests;
  - b. Working with state agencies to develop a standard protocol for tracking public records requests, and documentation related to each request;
  - c. Developing uniform statewide standards and guidelines on agency fee structures or charging policies; and



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- d. Working with agencies to develop streamlined management processes, administrative rules, and statewide policy guidance regarding internal processes and procedures for records retention and management.
3. This Order shall remain in effect until it is otherwise modified, amended or terminated.

Done at Salem, Oregon, this 20<sup>th</sup> day of January, 2016.



  
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Kate Brown  
GOVERNOR

ATTEST:

  
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Jeanne P. Atkins  
SECRETARY OF STATE