

THE NORTHWEST SEAPORT ALLIANCE
MEMORANDUM

MANAGING MEMBERS
ACTION ITEM

Item No.	4A
Date of Meeting	August 4, 2020

CONSENT AGENDA

DATE: July 20, 2020

TO: Managing Members

FROM: John Wolfe, CEO

Sponsor: Erin Galeno, Chief Financial and Administration Officer, and
Public Records Officer

Project Manager: Diane Jordan, Records and Business Systems Analyst
and Dana Henderson, General Counsel

SUBJECT: Amendment to Fee Schedule for Public Records

A. ACTION REQUESTED

Adoption of proposed amendment of fee schedule for public records, attached hereto as Exhibit A.

B. SYNOPSIS

The NWSA's current fee schedule for public records production is out of date. In 2017, RCW 42.56.120 was amended to provide clarification that public agencies may charge for certain types of public records, particularly as such charges relate to additional expenses incurred to produce records electronically. NWSA is not currently charging for production of public records because the fee schedule is outdated. Additionally, the majority of records requests are filled electronically, with no additional cost to NWSA and therefore no charge to the requestor. However, there are times where the NWSA would be forced to incur extra expenses to respond to a request, and in such cases, staff proposes a fee schedule to recoup those expenses.

C. BACKGROUND

RCW 42.56.120 was amended in 2017 to clarify that public agencies may charge up to a statutory amount for the cost of copies for public records and to scan paper records to electronic form. This revision also established that agencies may pass

through the agency's actual expenses associated with fulfilling records productions (such as third-party copy services for oversized records, access fees charged by vendors, or electronic media necessary for production).

For the most part, records existing electronically are provided electronically through the NWSA's on-line records portal, NextRequest. If the record is stored and produced electronically, NWSA does not charge for such production; this would stay the same under the proposed new fee schedule. It is in the public records officer's discretion as to whether or not to charge for the production.

Under the proposed fee schedule, charges for records would be for statutorily-allowable costs associated with scanning current hard copy records to electronic form, for paper copies when requested, and for actual costs of external resources or technical resources necessary to produce the records. Additionally, in instances where NWSA would have to pay a fee to a third party to access certain records, the proposal is to pass through that fee to requestor. A requestor will not be charged anything more than is necessary to reimburse the Northwest Seaport Alliance for its actual costs directly incident to copying and production of the records. No fees are charged for staff time to search for records, and no fees are charged to members of the public who wish to inspect records on-site. The proposed fee schedule is as follows:

Item	Cost
Existing electronic records posted to records request Northwest Seaport Alliance portal (NextRequest)	No charge
Photocopies	\$.15/page or actual cost Two-sided documents are charged as two pages
Large production of paper records or non-standard sized or non-routine records requiring use of outside vendor	Actual cost of copy or production service including postage and shipping container; may require deposit of 10% of estimated cost prior to production
Paper scanned to electronic file	\$.10/page or actual cost
External drives or other digital storage media devices	Actual cost
Mailing, delivery and shipping	Actual cost of mailing or shipping plus cost of shipping materials
Any charge by third-party vendor to access and produce records stored by that vendor	Actual cost
Customized service charge, after notice to requestor	Actual cost

It is recommended that a new schedule be adopted. Though fees are not usually charged, for certain requests, fees may be necessary to avoid NWSA incurring additional expense, and in some instances, the expense to the NWSA could be significant.

Key differences between the current, outdated fee schedule is that the proposed fee schedule: removes higher charge for color copies; reduces the charge for scanned records from \$.15 to \$.10 per page; clarifies that costs for certain items will be passed through to requestors (including charges by third party vendors); and expands options for pass through costs of electronic media necessary for production.

Public hearing on this topic is considered a best practice that allows the public to comment on charges that may be passed through to requestors. This item has been placed on the consent agenda, as it is administrative in nature, but may be called to the action agenda upon Commissioner request.

D. FINANCIAL IMPLICATIONS

- No financial implications to the NWSA.
- Requestor will be given notice of actual costs prior to the work being done. The requestor is required to pay the actual cost of producing records prior to release of records.

E. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

- **No Action Alternative:** No financial implications to the Northwest Seaport Alliance. Requestor will be given notice of actual costs prior to the work being done. The requestor is required to pay the actual cost of producing records prior to release of records.
- **Recommended Action:** Adopt the proposed fee schedule as presented.

F. ATTACHMENTS TO THIS REQUEST

- Computer slide presentation.
- Draft Public Records Fee Schedule, Exhibit A

G. PREVIOUS ACTIONS OR BRIEFINGS

None.

FEE SCHEDULE FOR COPIES OF NORTHWEST SEAPORT ALLIANCE RECORDS

Effective: August 5, 2020

As provided under state law, the Northwest Seaport Alliance does not charge a fee for locating public records or for making records available for review and inspection.

NOTE: The Northwest Seaport Alliance reserves the right not to charge fees set forth herein on a case-by-case basis and the Public Records Officer may determine, in their discretion, whether or not to charge fees for a particular request.

As allowed under RCW 42.56.120, the following fee schedule has been adopted by the Northwest Seaport Alliance for copying and production of requested records.

- The charge for standard black-and-white photocopies is fifteen cents (\$.15) per page. This is a statutorily allowed fee, as calculating the actual costs for staff time, materials, and production of a copy would be administratively burdensome.
- For large productions of paper records or for copying of non-standard sized documents or non-routine formats, the Northwest Seaport Alliance may use an outside vendor and charge the actual cost of the copy or production service including postage and the shipping container. A deposit of 10% of the estimated cost may be required prior to production of the records.
- The charge to scan a paper record to electronic copy of a record is ten cents (\$.10). This is a statutorily allowed fee, as calculating the actual costs for staff time, materials, and production of an electronic copy would be administratively burdensome.
- For large productions of electronic records requested/required on external drives, the Northwest Seaport Alliance may charge the requestor the actual cost of the external drive or digital storage media device.
- In addition to the charge imposed for providing copies of public records the Northwest Seaport Alliance may include a customized service charge if the Northwest Seaport Alliance estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the Northwest Seaport Alliance for other agency purposes. In all such cases, the Northwest Seaport Alliance will notify the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge. This notice will provide the requestor the opportunity to amend their request in order to avoid or reduce the cost of a customized service charge. Requester must pay customized service charge and any applicable fees prior release of records.
- Charges may be combined to the extent that more than one type of charge applies to the production of records (for example, \$.10/page of paper files scanned to electronic format, plus cost of digital storage media device if required for production).
- A requestor will not be charged anything more than is necessary to reimburse the Northwest Seaport Alliance for its actual costs directly incident to copying and production of the records.
- No sales tax is charged on copies of records made at the Northwest Seaport Alliance's facilities.

- Payment to the Northwest Seaport Alliance under this schedule may be made by cash or check.
- If the request is fulfilled in installments, payment for each records installment must be paid prior to installment release. If an installment is not paid and claimed, the Northwest Seaport Alliance is not obligated to fulfill the balance of the request.

Item	Cost
Existing electronic records posted to records request Northwest Seaport Alliance portal (NextRequest)	No charge
Photocopies	\$.15/page Two-sided documents are charged as two pages
Large production of paper records or non-standard sized or non-routine records requiring use of outside vendor	Actual cost of copy or production service including postage and shipping container; may require deposit of 10% of estimated cost prior to production
Paper scanned to electronic file	\$.10/page
External drives or other digital storage media devices	Actual cost
Mailing, delivery and shipping	Actual cost of mailing or shipping plus cost of shipping materials
Any charge by third-party vendor to access and produce records stored by that vendor	Actual cost
Customized service charge, after notice to requestor	Actual cost



Item No.: 4A
Meeting Date: August 4, 2020

Public Hearing and Adoption of Amendment to Fee Schedule for Public Records

Presenter: Erin Galeno, CFAO and Public Records Officer

Action Requested

Request Managing Members of the Northwest Seaport Alliance (NWSA) authorization of the proposed amendment to the Public Records Fee Schedule.

Note:

Placed on consent agenda due to administrative nature of issue; may always be placed on action agenda upon Commissioner request.

Current Status

Current fee schedule for the Northwest Seaport Alliance public records production is out of date.

NWSA typically provides records in electronic format posted to the Northwest Seaport Alliance NextRequest site for no charge unless the records cannot be produced in that manner or a different format is specifically requested by the requestor.

No fees are charged for locating public records.

No fees are charged for inspection of public records.

Background

- RCW changed in 2017 to incorporate allowable charges for electronic production of public records.
- Most records that exist electronically are provided electronically in response to requests and there are no fees charged.
- Charges for records would be for statutory costs associated with scanning current hard copy records to electronic form and paper copies as requested and actual costs of external resources or technical resources. Overly burdensome to determine actual costs incurred for copies and scans.
- In instances where NWSA would have to pay a fee to a third party to access certain records; proposal is to pass through that fee to requestor.
- Public hearing on this topic considered best practice, most transparent.

Proposed Fee Schedule

Item	Cost
Existing electronic records posted to NextRequest	No charge
Photocopies	\$.15/page; Two-sided documents are charged as two pages
Large production of paper records or non-standard sized or non-routine records requiring use of outside vendor	Actual cost of copy or production service including postage and shipping container; may require deposit of 10% of estimated cost prior to production
Paper scanned to electronic file	\$.10/page

Proposed Fee Schedule, Cont.

Item	Cost
External drives or other digital storage media devices	Actual cost
Mailing, delivery and shipping	Actual cost of mailing or shipping plus cost of shipping materials
Any charge by third-party vendor to access and produce records stored by that vendor	Actual cost
Customized service charge, after notice to requestor	Actual cost

Key Changes from Current Fee Schedule

- Removes higher charge for color copies
- Reduces charge for scanned records from \$.15 to \$.10 per page
- Clarifies that costs for the following items will be passed through to requestors:
 - Digital storage media devices or external drives
 - Any charge by third-party vendor necessary to produce records
 - Customized service charges
 - Production of paper or non-routine records through use of vendor
- Expands options for pass through costs of electronic media necessary for production

Financial Implications

- No financial implications to the Northwest Seaport Alliance.
- Requestor will be given notice of actual costs prior to the work being done. The requestor is required to pay the actual cost of producing records prior to release of records.



Alternatives Considered and Their Implications

- **No Action Alternative:** Do not adopt the proposed fee schedule; this would leave NWSA with an outdated fee schedule which will not be utilized because it is out of compliance with RCW 42.56.120
- **Recommended Action:** Adopt the proposed fee schedule as presented.

Action Requested

Request Managing Members of the Northwest Seaport Alliance (NWSA) adoption of the proposed amendment to the Public Records Fee Schedule. (Consent Agenda)



Questions from Commissioners

Public Hearing