

From: [Steve Suo](#)
To: [Public Records Task Force](#)
Subject: CORRECTED: Comments
Date: Thursday, May 26, 2016 4:35:11 PM
Attachments: [AG public records-short.docx](#)

Please use these comments for the public record. An earlier version contained an incorrect citation for a statute number.



OREGONLIVE

The Oregonian

OREGONIAN MEDIA GROUP

To: Attorney General Ellen Rosenblum

Fr: Steve Suo, The Oregonian/OregonLive

Da: May 26, 2016

Re: Testimony, Attorney General's Task Force on Public Records

I am the managing producer for Watchdog & Data-Driven Enterprise at The Oregonian/OregonLive.

My team uses public databases to evaluate how well government agencies are working. For example, last year we matched a Portland database of home demolitions and with a DEQ database of asbestos abatement projects. We found developers had torn down hundreds of homes without removing asbestos as required by law. Our project exposed a serious gap in the way Oregon protects workers and residents from this cancer-causing material.

Acquiring public databases to do our job is always a challenge, and the issue usually is cost. The Department of Public Safety Standards and Safety last year quoted us a cost of \$13,000 for one database. For another, the Portland Police Bureau quoted a cost of \$1,042,450.20.

Agencies offer many reasons why creating an electronic copy of their databases is time-consuming and costly. Whether plausible or invented, calculated to recoup actual costs or inflated to thwart disclosure, these assertions arise almost every time.

Public bodies should be obligated to store all public records, especially electronic data, in a manner that makes disclosure inexpensive. Storing records in this manner would facilitate our ability to do journalism in the public interest, and it would make life far easier for government bodies when retrieving records.

Allow me to propose three simple steps that would dramatically improve the ability of my reporters to do their jobs.

1. Oregon procurement law (ORS 279) should state that any vendor bidding to build a records management system must certify the following:

- All contents of the database can be exported to a non-proprietary, open format such as a comma-separated text file. This functionality should be built in and not require programming by the public body. The vendor should make it simple for the public body to suppress fields containing information mandatorily exempt in records law.
- The vendor will provide the public body with a detailed description of all tables and fields in the database, known as a "data dictionary." This document will be a public record and not subject to ORS 192.502(2), which conditionally exempts trade secrets. The vendor further waives federal copyright protection for the data dictionary.

2. ORS 192.501(2) should be amended to clarify that for both new and existing public database systems, the sort of data dictionary I just described is not a "trade secret."

Let me explain why this is so essential. We almost always ask agencies for data dictionaries when preparing a records request. The dictionary tells us how the records are stored and what information they contain. Knowing this makes it possible for us to craft better records requests that don't waste our time or the agency's.

The trouble is, public bodies too often deny requests for data dictionaries, misusing the trade secrets exemption. A data dictionary is not brilliantly crafted computer code or proprietary recipe. It is a table of contents that describes, in plain English, which public records are contained in each portion of a publicly owned database. It would help if ORS 192 articulated these facts clearly in statute.

3. ORS 192.501(15), which conditionally exempts "computer programs," also should be amended to clarify that data dictionaries are not exempt from disclosure.

In conclusion, I would say this. Explicitly requiring vendors and agencies to store records in a retrievable and transparent manner is essential to lowering the financial barriers of disclosure. Without such a proactive obligation, without concrete steps to ensure public records are affordably accessible, the mere "right to inspect" public records in Oregon has little meaning.