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December 30, 2019

VIA EMAIL ONLY: jdudash@freedomfoundation.com

Jason Dudash
Freedom Foundation
P.O. Box 18146
Salem, OR 97305

Re: Petition for Public Records Disclosure Order
Department of Administrative Services
DOJ File No. 107011-GA0150-19

Dear Mr. Dudash,

This letter is the Attorney General's order responding to your petition, on behalf of the Freedom Foundation, for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, which we received December 19, 2019,[1] asks the Attorney General to order the Oregon Department of Administrative Services (DAS) to disclose the residential addresses, personal residential and cellular telephone numbers, and personal electronic mail (e-mail) addresses of approximately 350 employees of the Oregon Department of Agriculture. For the reasons discussed below, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain any such denial. *Id*.

DHS denied your request for this information under ORS 192.355(3). That provision conditionally exempts from disclosure the following personal information of public employees:

> [R]esidential addresses, residential telephone numbers, personal cellular telephone numbers, personal electronic mail addresses, driver license numbers, employer-issued identification card numbers, emergency contact information,

[1] Thank you for granting an extension on the deadline to issue this order.

> Social Security numbers, dates of birth and other telephone numbers contained in personnel records maintained by the public body * * *.

The public employee personal contact information you have requested clearly falls within the scope of ORS 192.355(3) and is thus conditionally exempt.[2] Disclosure to you is subject to compliance with other statutory provisions, including the requirement that you show by clear and convincing evidence that the public interest requires disclosure in this particular instance. *See* ORS 192.363(1)(c) and (2).

On the record before us, we cannot conclude that you have shown by clear and convincing evidence that the public interest requires DAS to disclose the employees' personal contact information to you. Your petition explains that disclosure is in the public interest because it will enable you to "inform" the employees about their constitutional rights regarding union membership. However, your petition does not explain why the public interest requires DAS to disclose the employees' *personal* contact information for purposes of conveying this information. The employees' work-related contact information is generally available to the public, and as your petition demonstrates, the Freedom Foundation has already obtained most of the employees' employment-related email addresses. Thus, we cannot say that any public interest that might be served by your efforts to inform the public employees *requires* disclosure of their personal contact information. We therefore respectfully deny your petition.

Sincerely,



Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM10013574
c via email only: Elizabeth Craig, DAS

[2] We note that the employees' personal e-mail addresses are separately exempt from disclosure under ORS 192.355(40)(a).