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May 26, 2023

Arnold R. Huskey
SID #6674480
3405 Deer Park Drive SE
Salem, OR 97310

Re: Petition for Public Interest Fee Waiver
Department of Corrections
DOJ File No.: 291200-GA0092-23

Dear Mr. Huskey:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to find that the Department of Corrections (DOC) unreasonably denied your request that it waive its $14.00 fee to furnish you with copies of DOC's contracts for telephone and electronic tablet services. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers the right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.314(1). Agencies may establish fees reasonably calculated to recover their actual costs for making public records available, but "may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the general public." ORS 192.324(4)–(5). The furnishing of public records primarily benefits the general public when its greatest utility is to the community or society as a whole. *See In Defense of Animals*, 199 Or App 160, 189 (2005). And regardless of how interested the public may be in a particular matter, if the requester fails to demonstrate the ability to meaningfully disseminate the requested information, disclosure will not primarily benefit the general public. *See Attorney General's Public Records and Meetings Manual* at 24 (2019). Any person who believes there has been an unreasonable denial fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6).

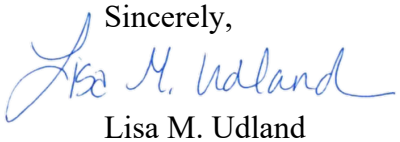
Your petition states that DOC's $14.00 fee is "entirely reasonable." However, you believe you are entitled to a public interest fee waiver in this instance because public funds are allocated on these contracts and because Adults in Custody (AICs), their families, friends,

associates, etc., are required to use these communication service providers. You also state that you are requesting these contracts on behalf of all AICs and would like copies placed in all DOC libraries.

In response to your petition, we contacted Michelle Dodson, DOC Records Officer. She expressed DOC's position that your request does not qualify for a public interest fee waiver because disclosure to you will not primarily benefit the general public. She explained that neither your initial request nor your petition demonstrates any ability to meaningfully disseminate the requested information to the general public. She also explained DOC's position that the Public Records Law does not govern what records are maintained in DOC's libraries. And insofar as you may intend to post the records in DOC's libraries yourself, she explained that you lack any authority to do so.

Under the circumstances, we cannot conclude that DOC unreasonably denied your request for a public interest fee waiver. Your petition does not demonstrate any intent or ability to meaningfully disseminate the information to the general public, which is a necessary condition to be eligible for a public interest fee waiver. We therefore respectfully deny your petition.

Sincerely,



Lisa M. Udland
Deputy Attorney General

ACF:pjn
c via e-mail only: Michelle Dodson (DOC)