DAN RAYFIELD
ATTORNEY GENERAL

LISA M. UDLAND
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

July 15, 2025

VIA E-MAIL ONLY: cgiardinelli@katu.com

Christina Giardinelli
2153 NE Sandy Blvd,
Portland, OR 97232

Re: Petition for Public Records Disclosure Order
Oregon Housing and Community Services
DOJ File No.: 914001 GA0093-25

Dear Ms. Giardinelli:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, 192.311 to 192.431. Your petition asks the Attorney General to order Oregon Housing and Community Services (OHCS) to waive its fees to produce redacted emails. For the reasons discussed below, we respectfully grant the 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). Agencies may establish fees reasonably calculated to recover actual costs in making public records available, but "may furnish copies without charge or 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). Even if waiving or reducing the fee is in the public interest, agencies have discretion whether or not to grant such waivers or reductions. *See In Defense of Animals v. OHSU*, 199 Or App 160, 189 (2005). However, an agency's decision to deny a fee waiver or reduction must be reasonable under the totality of the circumstances. *Id*. at 190. Any person denied a fee waiver or reduction by a state agency may petition the Attorney General for review. ORS 192.324(6). The agency carries the burden to sustain its decision. ORS 192.411(1).

///

///

Your petition indicates that you sought copies of emails exchanged between the OHCS procurement department and DOJ during the month of March 2024 related to a specific contract. Your petition states that OHCS provide you with a $913 fee estimate to provide redacted versions of those records. You then requested a fee waiver. Your fee waiver request explains that the "public has a vested interest in understanding how tax dollars are spent particularly during a difficult budget year when we are seeing lawmakers make tough choices including cutting rent assistance, preschool programs, etc." Your waiver request further states that "I have been attempting to shed light on the legalities that allowed OHCS to procure a non-bid consulting contract." And the request also explains that you intend to "disseminate this information through broadcast and digital platforms at KATU news" where you are employed as a reporter. The request says "we are a small newsroom without an investigative team and without an investigative budget therefore any fees associated with this request would be an obstacle to the public obtaining this information."

In response to your petition, we contacted Laura Rojas, OHCS Public Records Officer. She indicated that the records sought contained redacted attorney-client communications, which would be of little value to the public. Therefore, OHCS was standing on its fee waiver denial.

Under the Oregon Public Records Law, agencies considering a request for a fee waiver or reduction must first determine whether making the records available primarily benefits the general public. *See* ORS 192.324(5). The furnishing of public records primarily benefits the public when its greatest utility is to the community or society as a whole. *See In Defense of Animals v. OHSU*, 199 Or App 160, 189 (2005). Pertinent factors include the requester's identity, the purpose for which the information will be used, the character of the information, whether the requested information is already in the public domain, and whether the requester can meaningfully disseminate the information to the general public. *Attorney General's Public Records and Meetings Manual* at 19 (2024). If waiving or reducing processing fees is in the public interest, agencies nevertheless have discretion whether to do so. When evaluating whether an agency's denial of a fee waiver or reduction was reasonable, we consider the character of the public interest in the particular disclosure, the extent to which the fee impedes that public interest, and the extent to which a waiver would burden the public body. *Id*.

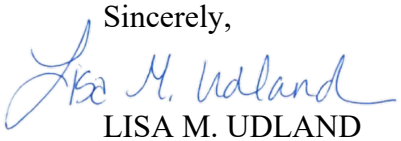
On the record before us, we cannot find that OHCS has met its burden to sustain its fee waiver decision. OHCS has not responded to the arguments concerning the public interest, except to indicate that the records at issue have little value because they contain privileged material that will be redacted. But OHCS has also quoted a fee of $913 to apply the redactions to those same records. Presumably then, some portion of the responsive records must contain non-privileged material. OHCS has not indicated that this information is already in the public domain or challenged the petitioner's ability to disseminate that information. And OHCS has not explained how responding to the request would burden the agency.

///

///

For these reasons, we grant the petition and order OHCS to waive its fee. OHCS has seven days within which to comply or to announce its intention to seek judicial review. ORS 192.401(3)(a) and 192.411(2).

Sincerely,



LISA M. UDLAND
Deputy Attorney General

DEP:pjn
c via e-mail only: Laura Rojas, Oregon Housing and Community Services