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December 10, 2025

VIA E-MAIL ONLY: madeleine@salemreporter.com

Madeleine Moore
Salem Reporter

Re: Petition for Public Records Disclosure Order
Oregon Housing and Community Services
DOJ File No.: 914001 GA0173-25

Dear Ms. Moore:

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 review the response provided by Oregon Housing and Community Services (OHCS) to your fee waiver request. Your petition also seeks review of the timeliness of OHCS's response to your request. 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 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). 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).

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Your petition indicates that you originally sought grant applications and related documents for a five-year period pertaining to two specific OHCS grantees (Seed of Faith Ministries and Community Recovery and Wellness Living (C.R.A.W.L.). Your petition states that OHCS provided you with a $750 fee estimate. You then requested a fee waiver. Your fee waiver request explains that you seek these records for reporting done in the public interest:

> I and another reporter at Salem Reporter are gathering background information about C.R.A.W.L. and Seed of Faith as part of accountability reporting for a story about the shelter and the services it provides using taxpayer dollars. This information will help strengthen our reporting on two organizations that work directly with vulnerable people in need of housing and how those organizations are using public money.

You further explain that you intend to disseminate the information via reporting published to the Salem Reporter's website.

OHCS denied your fee waiver request. You then narrowed the time frame of your records request from five years to ten months, and you renewed your request for a fee waiver. OHCS responded with a $362.50 fee estimate and did not grant the renewed request for a fee waiver.

In response to your petition, we contacted Janell Saavedra with OHCS's Information Services Division. Ms. Saavedra noted that some of the records responsive to your request ("the contracts in question") are publicly available through OregonBuys.[1] She also indicated that OHCS denied the fee waiver request due to a lack of agency resources.[2]

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*, 199 Or App at 189. 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*.

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[1] Your petition indicates that you searched OregonBuys and that it "did not have any responsive documents relating to either organization's applications, notices or grant agreements," which is what you requested from OHCS. In connection with our review, we searched OregonBuys and could not locate copies of the requested records.

[2] Specifically, Ms. Saavedra indicated that "as with other requests, I am still the only one in records and responsible for the redaction work, so waiving fees is not feasible at this time."

On the record before us, we cannot find that OHCS has met its burden to sustain its fee waiver decision. OHCS does not appear to have made any assessment of the public interest associated with the records request. Instead, OHCS indicates that "as with other requests * * * waiving fees is not feasible at this time." Although OHCS has discretion to deny the fee waiver, it must act reasonably. The applicable standard of "reasonableness" is "an objective standard" that requires the public body to make an examination of "the totality of the circumstances presented." *In Defense of Animals*, 199 Or App at 190. OHCS's blanket determination that fees will not be waived due to resource constraints is inconsistent with this standard. *See* Public Records Order, Apr 8, 2010, Dimitre ("[T]he required exercise of discretion is incompatible with [the agency's] categorical determination that 'the public interest in keeping state agency costs low * * * outweighs any public interest in making records available free of charge.'"). For this reason, we grant this portion petition of the petition and order OHCS to waive its fee.

We next turn to your argument that OHCS's response to your records request is untimely under the Public Records Law. Upon receipt of a written public records request, the agency is obligated to respond to the request "as soon as practicable and without unreasonable delay." ORS 192.329(1). An agency that is unable to complete its response within fifteen business days of receiving a written request is required to provide the requester with a reasonable estimated completion date. ORS 192.329(5). A requester may petition the Attorney General if they believe an agency has failed to comply with the processing timelines contained in ORS 192.329. ORS 192.407(1). The agency carries the burden of sustaining its actions. ORS 192.411(1).

Your petition argues that OHCS has not met its obligation to complete its response "as soon as practicable and without unreasonable delay." Your petition explains you made your initial records request on October 17, 2025. OHCS responded with its fee estimate on October 29, 2025. You then submitted a revised request on November 7, 2025. You state that OHCS responded on November 21, 2025, indicating that it was still working "on getting the 2025 numbers," and was hoping to have a time quote to you early next week. On December 3, 2025, OHCS responded with its updated fee estimate. Your petition argues that OHCS's multi-week delay in providing the revised fee estimate was "particularly egregious since OHCS has already estimated the work to produce the requested records" in connection with its first fee estimate. You then paid the fee on December 4, 2025.[3] Your petition argues that while OHCS had made a generalized claim that your original request was burdensome, it did not provide you with specific reasons for an extension of the fifteen-business-day deadline.

In response to your petition, Ms. Saavedra stated that the "division that would need to pull the records is getting slammed with records request right now." She indicated that this division is working on a "first in, first out system" for responding to the many requests and "there would be a delay due to the number of records we are having to pull."

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[3] You have indicated that you and the Salem Reporter paid the fees to expedite processing of the records, but you still contend that the fees should be waived, and you are continuing to challenge that decision.

Based on the timeline provided by you, it appears that OHCS provided its revised fee estimate fifteen business days after you submitted your clarified request.[4] OHCS based its revised fee on a projected fifteen hours of clerical time needed to fulfill the request. In connection with its revised fee estimate, OHCS communicated to you that "that the division that would need to provide these records has been getting many large requests for records, which we are working on as quickly as possible, but it does mean that it will take an estimated 6-8 weeks to provide the documents you requested."

A public body that cannot complete its response within fifteen business days has the option of providing "a reasonable estimated date by which the public body expects to complete its response based on the information currently available." ORS 192.329(5)(b). In this instance, OHCS has already taken fifteen business days to provide an update to a previously calculated fee estimate. OHCS's further estimate of up to eight weeks to conduct fifteen additional hours of clerical review is not reasonable or consistent with its obligation to complete its response "as soon as practicable and without unreasonable delay." ORS 192.329(1). We find that two additional weeks to complete the response is reasonable under the circumstances. *See* Public Records Order, Nov 24, 2021, Anderson (agency's commitment of eight to ten hours per week was reasonable given the size and scope of the request); Public Records Order, June 14, 2023, Isaak & Nabors (public body's commitment of ten hours per week was reasonable).

For the foregoing reasons, we order OHCS to waive its $362.50 fee estimate and refund that amount to the payor. We further order OHCS to complete its record production within fourteen days of this order. OHCS has seven days to announce its intention to seek judicial review of this order. ORS 192.411(2).

Sincerely,

BENJAMIN GUTMAN
Interim Deputy Attorney General

DEP:pjn
c via e-mail only: Janelle Saavedra, Oregon Housing and Community Services

[4] Business days do not include weekends or court holidays.