DAN RAYFIELD
ATTORNEY GENERAL

BENJAMIN GUTMAN
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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

August 7, 2026

VIA E-MAIL ONLY: billdenisepepperling1987@gmail.com

Denise Pepperling
billdenisepepperling@gmail.com

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100001-GA0146-26

Dear Ms. Pepperling:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.431. Your petition asks the Attorney General to order the Oregon Department of Human Services (ODHS) to waive the fees associated with producing records to you. You also challenge the amount of the fee quoted by ODHS. 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). 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). 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). 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). 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. *Id.* A requester who believes there has been an unreasonable denial of a fee waiver or reduction may petition the Attorney General for review. ORS 192.324(6).

You submitted a multi-part records request to ODHS. In connection with that request, you asked ODHS to waive any processing fees. ODHS denied your fee waiver request after concluding that your fee waiver request had not met the public interest threshold.

You state that the records sought "would be used to evaluate ODHS's handling of employee complaints, whistleblower reports, public-sector employment practices, public-records compliance, and internal decision-making." You assert that these records may reveal whether systemic deficiencies may affect other employees or members of the public. You also explain that you intend to disseminate the records by sharing them with legal counsel, oversight agencies, elected officials, employee advocacy organizations, labor representatives, member of the media, public forums, online publications, and social-media platforms.

We reviewed the correspondence between you and ODHS pertaining to your records request. You requested five categories of records, all pertaining specifically to you. Based on the record before us, we cannot conclude that ODHS unreasonably denied your fee waiver. We do not perceive any particular public interest in you or your employment dispute with ODHS. Furthermore, the information you have provided does not show that you currently have the ability to meaningfully disseminate the records to the general public. Your stated plan relies primarily on third parties choosing to further distribute the information. This speculative, contingent dissemination is not sufficient to demonstrate your own ability to reach the public.[1] We therefore conclude that ODHS's fee-waiver decision was reasonable, and we respectfully deny this portion of your petition.

We turn next to your argument that ODHS's estimated fee of $6,900 constitutes a constructive denial of your request. Agencies may establish fees reasonably calculated to recover actual costs in making public records available. ORS 192.324(4)–(5). Although the Attorney General generally does not have the authority to review the reasonableness of a fee estimate, the Attorney General may evaluate claims that "the amount of the fee in comparison to the nature of the request suggests that the true purpose of the fee is to constructively deny the request, rather than to recoup the agency's actual costs." *Attorney General's Public Records & Meetings Manual* 18 (2024). This evaluation requires the public body to explain how it calculated its fee.

///

///

///

[1] *See* Public Records Order, Aug 31, 2020, Ranweiler (finding "no basis to conclude that [record petitioner's] plan to post documents online will reach any significant segment of the public"); *see also Judicial Watch, Inc. v. Rossotti,* 326 F3d 1309 (DC Cir 2003) (contrasting sufficient and insufficient demonstrations of ability to disseminate information to public).

Your records request to ODHS seeks five separate categories of records with no time limitations. Some of the requests are quite broad, including a request for any communications that reference you, a former employee of the agency. ODHS states that it conducted an electronic records search in response to your requests, which generated 5,000 records. ODHS indicates that those records need to be reviewed and redacted to segregate exempt material. ODHS calculated the fee based on a projection of ODHS personnel time required to conduct this work. Based on our review of the estimate, ODHS's fee appears reasonably calculated to recoup ODHS's actual costs of processing your request, and we cannot conclude that ODHS has constructively denied your request. The fee does not appear excessive given the breadth and complexity of your request. For these reasons, we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Mallory Kenney (ODHS)