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

October 5, 2026

VIA E-MAIL ONLY: oregnaviationnews@gmail.com

Jonas Olson
Oregon Aviation News, LLC
oregonaviationnews@gmail.com

Re: Petition for Public Records Disclosure Order
Oregon Department of Aviation
DOJ File No.: 137048-GA0001-26

Dear Ms. Olson:

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 Department of Aviation (ODAV) to waive its fees to produce redacted emails. For the reasons discussed below, we respectfully deny 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).

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Your petition indicates that you sought copies of the "complete/administrative grant files" associated with two applications. You requested a fee waiver. ODAV acknowledged that these were matters of public interest but denied your fee waiver request after "considering the totality of the circumstances, the scope of the request, [your] stated purpose, and the burden placed on agency resources." ODAV further explained that it is an agency with limited resources and the request, as submitted, would require 2.5 hours of agency time just to compile the records, before any management or final review.

Your petition challenges ODAV's decision. You explain that there is an identified public interest in the administration of these grants and that you seek these records for newsgathering and public dissemination. You argue that 2.5 hours is only a modest burden on the agency. Given these factors, you contend, at a minimum, that ODAV should have provided a substantial reduction of its fee. After receiving your petition and considering your arguments, ODAV reconsidered its position and offered a 50 percent reduction of its fee.

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* (*Manual*) at 19 (2024). If waiving or reducing processing fees is in the public interest, agencies nevertheless have discretion whether to do so.

Because ODAV determined that disclosing the records to you would be in the public interest, we must determine whether its decision to reduce its fee by 50 percent was reasonable under the totality of the circumstances. Because the Public Records Law grants agencies discretion with respect to waiving and reducing fees, we do not ask whether our office would have made the same decision in this instance. Rather, we may only assess whether ODAV exercised its discretion "within the range of lawful options available to it under the relevant law." *In Defense of Animals*, 199 Or App at 189. When exercising this discretion, we have concluded that agencies should consider the character of the public interest in the particular records, the extent to which the fee impedes the public interest, and the extent to which waiver or reduction would burden the agency. *Manual* at 19.

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ODAV considered the appropriate factors and elected to grant a 50 percent fee reduction. Under the circumstances, we do not find this decision unreasonable. We therefore conclude that ODAV did not unreasonably deny your request for a fee waiver, and we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

DEP:pjn
c via e-mail only: Kenji Sugahara, ODAV