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

November 9, 2026

VIA E-MAIL ONLY: mikeylikesit66669@gmail.com

Michael Nelson
mikeylikesit66669@gmail.com

Re: Petition for Public Records Disclosure Order
Department of Administrative Services
DOJ File No.: 100101-GA0220-26

Dear Mr. Nelson:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition challenges several aspects of the Oregon Department of Administrative Services' (DAS) response to your public records request. For the reasons set forth below, we respectfully dismiss your petition in part, and we deny your petition in part.

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). The law is a disclosure law and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

Your petition stems from a multi-part records request that you made to DAS on October 26, 2026, related to a tort claim notice that you submitted related to the Division of Financial Regulation (DFR) within the Department of Consumer and Business Services (DCBS). In response to this petition, DAS stated that on October 27, 2026, DAS notified you that (1) DAS has no records responsive to the portions of your request that ask for GEICO records and DAS communications with agencies other than DCBS concerning your notice and potential determination; (2) DAS has produced records of your communications with DAS; and (3) all other records requested related to your tort claim notice are exempt under ORS 731.264 and ORS 192.345(1).

With respect to the first and second parts of DAS's response, we respectfully dismiss those portions of your petition as moot because DAS has now completed its response. With respect to the third part, we deny your petition for the reasons that follow.

DAS explained that your tort claim notice relates to a complaint filed with DCBS, and associated records, that are exempt from disclosure under ORS 731.264(2).[1] This statute states that data gathered during an investigation of such a complaint is confidential and may not be disclosed, including by other agencies that agree to maintain confidentiality. *See* ORS 731.264; ORS 731.137(3)(b). Further, as required by ORS 705.137(3)(b), DAS and DCBS entered into an intergovernmental agreement, which, in turn, requires DAS to maintain the confidentiality of information provided to DAS by DCBS under ORS 731.264. The apparent purpose behind these protections is, in part, to prevent disclosures of information about regulated persons that would impede DCBS's ability to administer various statutes. *See* ORS 731.264; ORS 731.137.

As stated in Public Records Order, Aug 31, 2026, Nelson, DCBS has already determined that the records at issue here are exempt from disclosure under ORS 731.264(2) and we have no basis to question DCBS's determination—entrusted to the agency by statute—that additional disclosure is not necessary. *See* ORS 731.264. Those same records have now been transferred to DAS pursuant to ORS 705.137(3)(b) and we conclude that "the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable." *See* ORS 192.355(10). This is because the apparent purpose that originally gives rise to the confidential nature of information relating to a complaint filed with DCBS under ORS 731.264 remains the same even after those records are transferred to DAS for purposes of a tort claim notice. Because this information is confidential under ORS 731.264, including in the possession of DAS, this information is exempt from disclosure under the Public Records Law. ORS 192.355(9)(a); ORS 192.355(10).

The Public Records Law also conditionally exempts from disclosure records that pertain to litigation to which an agency is a party or pertain to litigation that the agency shows is "reasonably likely to occur." ORS 192.345(1). One indication that litigation is reasonably likely to occur is that a person has filed a notice of tort claim against an agency. *Attorney General's Public Records and Meetings Manual* (2024) (the "*Manual*") at 42 – 43. We have previously determined that records and reports prepared by an agency in response to such a notice would fall within the exemption. *Id*. (citations omitted). And we have found that DAS's correspondence with the affected state agency is similarly protected. *See* Public Records Order, Jul 21, 2017, Thunderbird. Because the records withheld by DAS were prepared in response to your tort claim notice, we conclude that they pertain to litigation and are exempt from disclosure "unless the public interest requires disclosure in the particular instance." ORS 192.345(1); *Manual* at 42 – 43.

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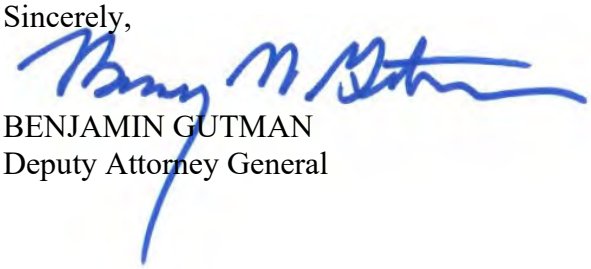
[1] We note that we have consistently interpreted ORS 731.264(2) to make investigatory information confidential and exempt from disclosure to complainants as well as to the general public. *See* Public Records Orders, Apr 12, 2021, McDonald; and Jan 13, 2021, Miller. We have also consistently interpreted the statute to apply to *all* records compiled during an investigation. *See id*. (correspondence from insurance company exempt); and Public Records Order, Jun 14, 2017, Ledbetter (*citing* Public Records Orders, Aug 1, 2008, Troyer (all records in the complaint file are exempt, including correspondence between complainant and agency); Nov 6, 1992, Ostrander (all information gathered is exempt); and Sep 25, 1991, Tozer (internal memoranda relating to an investigation are exempt)).

We have previously concluded that in evaluating whether the public interest requires the disclosure of records covered by this exemption, "an interest in private litigation does not justify disclosure." *Id*. at 43 (citations omitted). We have also consistently found that the ordinary tools of discovery generally negate any need to use the Public Records Law to gain access to records for purposes of private litigation. *Id*. Relatedly, we have stated that the purpose of the exemption is "is to place governmental bodies, as parties or potential parties to litigation, on an even footing with private parties." *Id*. at 42. Requiring public bodies to disclose their work product to litigation adversaries in advance of likely litigation would severely undercut that purpose, and the primary beneficiary would be a private litigant rather than the general public. Your records request concerns a tort claim filed by you related to a complaint you filed with DCBS. Under the circumstances, we cannot conclude that the public interest in disclosure outweighs the interest in preserving the confidentiality of the records at this time. We therefore respectfully deny your petition.

Sincerely,



BENJAMIN GUTMAN
Deputy Attorney General

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c via e-mail only: Todd Brown (DAS)