# PETITION FOR A PUBLIC RECORDS ORDER: DEPARTMENT OF EMERGENCY MANAGEMENT

| | |
|---|---|
| TO | Oregon Department of Justice, Public Records Orders |
| FROM | Robert Samuel White, P.O. Box 334, Reedsport, Oregon 97467 |
| DATE | November 4, 2026 |
| RE | Petition under ORS 192.411, ORS 192.324(6), and ORS 192.407; Department of Emergency Management; public records request of October 27, 2026 |

To the Attorney General:

I petition for a Public Records Order under ORS 192.411, ORS 192.324(6), and ORS 192.407. The Department of Emergency Management, a state agency, has denied my public records request of October 27, 2026 with a fee. Its invoice of $1,747.12 for one search of its email is a constructive denial. It has not decided my fee waiver. It requires the full fee before any work begins, and it has written that if I do not pay, the request is over. The burden is on the Department of Emergency Management to sustain its action [ORS 192.411(1)].

## THE PETITION

- **Petitioner:** Robert Samuel White, P.O. Box 334, Reedsport, Oregon 97467, rsw@rswfire.com.
- **Public body:** Department of Emergency Management.
- **Records:** All emails, including attachments and replies, sent to or received from kyle.kennedy@osp.oregon.gov or osppio@osp.oregon.gov that contain any of the terms “threat assessment”, “situational awareness”, “welfare check”, “knock and talk”, or “grievance”, from January 1, 2023, to the date of search. The request excludes any record concerning me.[1]
- **Requested:** October 27, 2026, at 12:31 PM, by email to OEM_PublicInfo@oem.oregon.gov.[1]
- **Denied by:** the Public Information Officer, Department of Emergency Management.

## THE FEE IS A CONSTRUCTIVE DENIAL

The request is one search: two addresses, five terms, and one date range.[1]

On November 3, 2026, Oregon Housing and Community Services answered a request for the same records. It searched the Microsoft 365 accounts of its staff with Microsoft Purview eDiscovery, found seventeen Teams messages, and produced them, with the reports of its search. It charged nothing.[2]

The Department of Emergency Management charged $1,747.12. At 3:10 PM on October 27, 2026, the day of my request, the Public Information Officer wrote that “Collecting the information necessary to fulfill this request would take many hours of staff labor, which will need to be paid by you per Oregon Law,” and that she had “begun the process of creating an invoice for you.”[3] Her letter describes no search and counts no records.

On October 30, 2026, she sent invoice AIJ00315 and wrote: "If you would like to proceed with this request, you will need to pay the invoice before any work can begin."[4] The invoice names no task, no hour, and no rate. It has one line: "PRR: OEM/OSP Communication Records," $1,747.12.[4] My request asked for an itemized estimate before any work began, showing the tasks, the hours for each, and the hourly rate of the employee performing each.[1]

I asked her to describe the search, whether it was limited to the terms and dates I requested, and how many results justify the fee.[5] She answered: "we are within our obligations and rights per Oregon law." She wrote: "If you choose to not pay the invoiced fee, I will assume you choose to not move forward with this request."[6]

On November 3, 2026, I asked the Department of Emergency Management in writing what work its invoice pays for that the search by Oregon Housing and Community Services did not need.[7] It has not answered.

The Attorney General's manual states the test:

> *While there is no provision in the Public Records Law that authorizes a person to petition the Attorney General to review the reasonableness of an agency's fees, state courts do possess this authority. And the Attorney General's authority to enforce the inspection provisions of the Public Records Law may require evaluation of an agency's fees where 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. This evaluation typically requires the public body to explain how it calculated its fee.*[8]

The nature of the request is one search. Another state agency ran the same search and charged nothing. The Department of Emergency Management set its fee without describing a search, refused to explain it when asked, and wrote that the request ends if the fee is not paid. A fee that ends the request is a denial of the request.

## THE FEE IS NOT ONE THE STATUTE PERMITS

ORS 192.324(4)(a) permits fees "reasonably calculated to reimburse the public body for the public body's actual cost of making public records available." ORS 192.329(3)(a) suspends a public body's obligation to complete its response only when it has informed the requester "of a fee permitted under ORS 192.324 (4)." A fee that is not calculated from actual cost suspends nothing. The Department of Emergency Management's obligation to complete its response "as soon as practicable and without unreasonable delay" stands [ORS 192.329(1)], and it has not completed it [ORS 192.407(1)(c)].

ORS 192.324(4)(c) reads:

> *The public body may not establish a fee greater than $25 under this section unless the public body first provides the requester with a written notification of the estimated amount of the fee and the requester confirms that the requester wants the public body to proceed with making the public record available.*

Invoice AIJ00315 states an amount due of $1,747.12 on terms of "NET 30." It states: "Accounts not paid within 30 days of the invoice date will be assessed interest." It states that the account may be assigned to "the Department of Revenue or a private collection firm."[4] I have not confirmed that I want the Department of Emergency Management to proceed at that fee.

## THE WAIVER WAS REQUESTED AND NEVER DECIDED

My request gave the case for the waiver under each factor the Attorney General's manual lists: the requester's identity, the purpose, the character of the information, whether it is already in the public domain, and the ability to disseminate it.[1] [9] Neither the Public Information Officer's letters nor the invoice mentions the waiver.[3] [4] [6] On October 30, 2026, I asked the Department of Emergency Management to decide it in writing.[10] It has not answered.

The Attorney General's manual states that "public bodies should promptly consider requests for fee waiver."[11] It states that the decision considers "(1) the character of the public interest in the particular disclosure, (2) the extent to which the fee impedes that public interest, and (3) the extent to which a waiver would burden the public body," and that public bodies "should also determine whether a more modest fee reduction is appropriate."[9] [12] The Department of Emergency Management has stated no public interest, no burden, and no reduction. A demand for the full fee before any work, on a request that asked for a waiver, is a denial of the waiver [ORS 192.324(6)].

## RELIEF REQUESTED

I ask the Attorney General to order the Department of Emergency Management to:

1. Sustain its fee: state how it calculated $1,747.12, in tasks, hours, and rates, and the search those hours are for [ORS 192.411(1)].
2. Produce the records within seven days, the fee being a constructive denial of my request [ORS 192.411(1); ORS 192.407(3)(a)].
3. Waive the fee [ORS 192.324(6); ORS 192.407(3)(c)].
4. Withdraw invoice AIJ00315 [ORS 192.324(4)(c)].
5. Pay the penalty of $200 for failing to respond to the request [ORS 192.407(3)(b)].

Every record of this request, and this petition, is published at openrecordsoregon.org. The order will be published beside them.

Respectfully,

**Robert Samuel White**
rswfire.com
openrecordsoregon.org
autonomyrealms.com

---

**Sources**

1. My request, October 27, 2026
2. The production, Oregon Housing and Community Services, November 3, 2026
3. The Public Information Officer's letter, October 27, 2026, 3:10 PM
4. The Public Information Officer's letter and invoice AIJ00315, October 30, 2026, 11:56 AM
5. My letter, October 30, 2026, 12:44 PM
6. The Public Information Officer's letter, October 30, 2026, 2:53 PM
7. My letter, November 3, 2026
8. Attorney General's Public Records and Meetings Manual (2024), p. 18

9. Attorney General's Public Records and Meetings Manual (2024), p. 20
10. My letter, October 30, 2026, 10:27 PM
11. Attorney General's Public Records and Meetings Manual (2024), p. 12
12. Attorney General's Public Records and Meetings Manual (2024), p. 21