



STATE OF NEBRASKA
Office of the Attorney General

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August 22, 2024

Via email at [REDACTED]
Duane Dinnel
[REDACTED]

RE: *Public Records Matter Involving the Chase County Fair Board*
File No. 20241159

Dear Mr. Dinnel:

This letter is in response to your correspondence received by this office on August 7, 2024. You have requested our assistance in obtaining “financial records for fiscal year ending June 30, 2024” from the Chase County Fair Board (Board). We forwarded your correspondence to Board Treasurer Jakob Burke on August 19, who provided us information regarding your pending public records request. We considered your correspondence to be a petition under § 84-712.03(1)(b) of the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2014, Cum. Supp. 2022), amended 2024 Neb. Laws LB 43. Our findings in this matter are set forth below.

FACTS

According to your petition, you submitted a public records request to Mr. Burke on July 26, 2024. On August 5, Mr. Burke informed you “that it would probably be after August 23 before [you] could get them.” You believe the delay is “unacceptable” since you and the other county commissioners need the records for your annual budget preparations.¹

¹ Please note that “[t]he public records statutes apply ‘equally to all persons without regard to the purpose for which the information is sought.’ As a general rule, citizens are not required to explain why they seek public information.” *BH Media Group, Inc. v. Frakes*, 305 Neb. 780, 801, 943 N.W.2d 231, 247. This office does not consider the reason or purpose for a records request when making our determination under § 84-712.03(1)(b).

According to Mr. Burke, he advised you that the delay was necessary because at the time of your request the Board “had just finished our annual State Financial Audit, we had just hired a new bookkeeper and our annual fair was coming up” He indicated August 23 as the timeline to fulfill the request. Mr. Burke has confirmed to the undersigned that he will have the requested information to you by the end of the day on August 23.

DISCUSSION

The procedure to obtain public records is set out in Neb. Rev. Stat. § 84-712(4), which states, in part:

(4) Upon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request.


While this statutory provision requires the record custodian to respond to a written request for public records no later than four business days after actual receipt, it does *not* require the custodian to produce records in four business days. Delays are allowed “if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request” In this event, the custodian must provide a written explanation for the delay, “including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request.” We note that while some of these requirements were met (e.g., the earliest practicable date for fulfilling the request was provided), other requirements were missed. Consequently, we will remind the Board, by sending a copy of this letter to Mr. Burke, that strict compliance with all of the provisions in § 84-712(4) must be met in the future.

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Since you will be receiving the records responsive to your public records request no later than the close of business tomorrow, August 23, no further action by this office is necessary and we are closing this file. If you disagree with our handling of this matter, you may wish to contact your private attorney to determine what additional remedies, if any, are available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Jakob Burke (via email only)

49-3614-31