



STATE OF NEBRASKA  
**Office of the Attorney General**

2115 STATE CAPITOL BUILDING  
LINCOLN, NE 68509-8920  
(402) 471-2682  
TDD (402) 471-2682  
FAX (402) 471-3297 or (402) 471-4725

**MIKE HILGERS**  
ATTORNEY GENERAL

**LESLIE S. DONLEY**  
ASSISTANT ATTORNEY GENERAL

March 5, 2025

Via email at [REDACTED]  
Dr. Vig Sinclair  
MuckRock News  
[REDACTED]

RE: *Public Records Matter Involving the Nebraska Department of Health and Human Services*  
File No. 20251025

Dear Dr. Sinclair:

This letter is in response to correspondence emailed to and received by this office on February 18, 2025. You have requested our review of the purported denial of your request for public records by the Nebraska Department of Health and Human Services (DHHS). We construed your correspondence to be a petition under the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2024). Our findings in this matter are set forth below.

### **FACTS**

On February 13, 2025, you submitted a public records request to DHHS using the online service "MuckRock." DHHS attorney, Thomas Skutt, Jr., responded to this request on the same day, informing you that

[f]or the following reason, the Agency is unable to fulfill this request.

In Nebraska, the basic rule for open public records is set out in Neb. Rev. Stat. § 84-712 (2014). That statute provides, in pertinent part, that "all citizens of this state and all other persons interested in the examination of the public records" shall have the right to examine records in the possession of public agencies during

normal agency business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. The request we received for the records listed above came from MuckRock.com. It requires us to respond to MuckRock.com directly, i.e., either by email to MuckRock.com (preferred) or by U.S. Mail addressed to "MuckRock News" in Boston, Massachusetts. However, MuckRock is neither a Nebraska citizen nor an interested person and, as a result, we do not consider this third-party request to be valid under the statute referenced above.

Although you were not denied access to any public records *per se*, Mr. Skutt provided you notice of your appeal rights under Neb. Rev. Stat. § 84-712.03, and further informed you that no costs were being assessed relating to your request.

According to MuckRock's website:

MuckRock Foundation is a nonprofit, collaborative news site and public resource that brings together journalists, researchers, activists and regular citizens to request, analyze and share government documents, making politics more transparent and democracies more informed.

MuckRock provides a repository of hundreds of thousands of pages of original government materials, information on how to file requests and tools to make the requesting process easier. . . .

Our extensive database of local, county, state and federal agencies makes it easy to request public records from any jurisdiction in the United States. Government materials on MuckRock are available free of charge and, with some exceptions, without restriction. Filing requests through MuckRock starts at just \$20 to file up to four requests, which includes advice, postage, follow-up and hosting of the materials in an easy-to-use format.

See <https://www.muckrock.com/about/>. In order to use the service, users are required to create an account, i.e., either "Free," "Professional" or "Organization." A Free account requires no credit card and users can "[p]urchase bundles of 4 requests for \$20" . . . and pay a "[b]ulk rate of \$4/request on purchases of 20 or more additional requests." A Professional or Organization account requires a monthly subscription fee of forty and one hundred dollars, respectively. Services, including the number of requests allowed per month, vary depending on the level of account selected. See <https://accounts.muckrock.com/selectplan/>.

You state in your petition that the "denial based solely on MuckRock's non-Nebraska status warrants reconsideration" for a variety of "legal and policy reasons" set out in your petition.

## DISCUSSION

As noted in Mr. Skutt's response to your request, Neb. Rev. Stat. § 84-712 sets out the basic rule to access public records in Nebraska. Subsection (1) expressly states:

Except as otherwise expressly provided by statute, *all residents of this state and all other persons interested in the examination of the public records* as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(Emphasis added.) We have carefully reviewed Mr. Skutt's response and information on the MuckRock website. Based on our review, we agree that MuckRock is neither a Nebraska resident nor other interested person. As such, a request via MuckRock is not a valid request under Nebraska law. We would further add that DHHS was unable to fulfill your request because it did not view it as a valid request under Neb. Rev. Stat. § 84-712(1), not that MuckRock has a "non-Nebraska status." In this respect, the NPRS specifically addresses costs that can be assessed on Nebraska residents *and* nonresidents.<sup>1</sup>

However, while DHHS is not required to process the request it received via MuckRock, there is nothing that precludes you from filing a request for public records using your own email or physical address. Upon receipt of a request from you directly, DHHS has a legal obligation to process your request in accordance with Neb. Rev. Stat. § 84-712(4). We assume, upon receipt of such a request, that Mr. Skutt will faithfully perform those duties as prescribed.<sup>2</sup>

---

<sup>1</sup> Neb. Rev. Stat. § 84-712(3)(d) provides that "[f]or nonresidents of Nebraska, the actual added cost used as the basis for the calculation of a fee for records may include a charge for the proportion of the existing salary or pay obligation to the public officers or employees, including a proportional charge for the services of an attorney to review the requested public records, for the time spent searching, identifying, physically redacting, copying, or reviewing such records." (Emphasis added.)

<sup>2</sup> See *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009) ("In the absence of evidence to the contrary, it may be presumed that public officers faithfully performed their official duties and that absent evidence showing misconduct or disregard of law, the regularity of official acts is presumed.").

Dr. Vig Sinclair  
March 5, 2025  
Page 4

## CONCLUSION

Under § 84-712.03(1)(b), this office is authorized to review public record matters “to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections . . . .” We concur with DHHS’ determination that a request via MuckRock is not a valid request under § 84-712(1). As a result, you were not denied access to public records and there was no failure on the part of DHHS to comply with the NPRS. As noted above, access to Nebraska public records is available to you via a direct request to DHHS.

Sincerely,

MIKE HILGERS  
Attorney General



Leslie S. Donley  
Assistant Attorney General

c: Thomas Skutt, Jr.

49-3745-31