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MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

January 7, 2026

Via email: [redacted]
Christopher Jay
[redacted]

RE: *Public Records Matter Involving the Nebraska Department of Health and Human Services*
Our File No. 20251163

Dear Mr. Jay:

This letter is in response to your petition received by this office on December 23, 2025, in which you sought our review of the amount charged by the Nebraska Department of Health and Human Services ("DHHS") for fulfilling your public records request submitted on November 17, 2025. We have reviewed your petition in accordance with the Nebraska Public Records Statutes ("NPRS"), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024), and our conclusions are set forth below.

FACTS

Our understanding of the facts in this matter is based on your petition to our office, the materials attached thereto, and the undersigned's communication with DHHS attorney Thomas Skutt. On November 17, 2025, you submitted a public records request to DHHS seeking:

1.
As of 1/1/2025, any emails between DHHS and either:

- HHS ACF (to anyone at ACF, i.e. "@acf.hhs.gov")
- TANF Regional Office VII Karen Beckerman

That are related to or discuss the following letters . . . :

- The letter dated 4-19-2023 from Ms. Karen Beckerman to Ms. Dannette Smith
- The letter dated 3-23-2023 from Ann Flagg to Dannette Smith

2.
As of 7/1/2024, any internal DHHS emails (i.e. not received externally; i.e. sent from DHHS employee to another DHHS employee) that have as an attachment either of those letters (including any other attachments that those emails contain), and any outbound emails from DHHS with either of those letters attached (again, including any other attachments on those emails).

On November 19, 2025, DHHS provided a "time and cost estimate" for a total charge of $184.32 to fulfill your records request with a 10% deposit of $18.43. The following chart reflects the relevant information contained in the invoice issued by DHHS:

Category	Details	Hourly Cost	Quantity of Hours	Hours Waived	Hours Charged	Total
Labor Fees	Attorney: Search, identifying, copying	$44.54	5.00	5.00	0.00	$0.00
Labor Fees	Administrative Programs Officer II: Administrative migration of data. Searching, identifying, copying, and redacting.	$30.83	3.50	3.00	0.50	$15.42
Labor Fees	Paralegal: Search, identify, copy, and redacting	$28.15	6.00	0.00	6.00	$168.90
						$184.32

A comment at the bottom of this invoice states:

> The agency is working on your request, due to the workload demands on agency personnel, our office expects the agency will be unable to provide a response until February 5, 2026. If the agency's response is available sooner, our office will respond accordingly. Should you desire to modify or prioritize your request, please contact our office directly.

Per the materials provided by Mr. Skutt, you paid the requested deposit on November 19, 2025. Upon your payment of that deposit, DHHS stated via response email:

> If you paid the deposit, the agency will now begin working on gathering documents responsive to your request and coordinating the necessary reviews prior to release. Once the agency's response to your request has been finalized, a final invoice of the remaining balance owed will be sent to you. This amount may change from the estimate depending on how much time and labor is actually spent on your request. Upon receipt of the final amount owed, the agency's response and records will be provided promptly.

In a subsequent email on November 19, you requested clarification regarding the number of items processed by DHHS to fulfill your request. That same day, a DHHS employee informed you via email that "the preliminary number of items found [was] 868." On December 15, 2025, DHHS issued a final invoice for the remaining balance, which you paid that same day. DHHS thereafter produced responsive records, totaling 192 pages, on December 16, 2025.

DISCUSSION

As discussed above, DHHS assessed a total fee of $184.32 reflecting the cumulative amount of hours spent fulfilling your records request by DHHS employees. You state in your petition that there were only 110 pages out of the total 192 that were "unique" and that the time spent and resulting amounts billed were excessive.

For purposes of fees charged by public bodies for responding to public records requests, § 84-712(3)(c) provides:

> For residents of Nebraska, **the actual added cost used as the basis for the calculation of a fee for records shall not include any charge for the existing salary or pay obligation to the public officers or employees with respect to the first eight cumulative hours of searching, identifying, physically redacting, or copying. A special service charge reflecting the calculated labor cost may be included in the fee for time required in excess of eight cumulative hours, since that large of a request may cause some delay or disruption of the other responsibilities of the custodian's office**, except that the fee for records shall not include any charge for the services of an attorney or other person to review the requested public records seeking a legal basis to withhold the public records from the public. No special service charge or fee shall be charged for copies of blank forms or pages that have all meaningful information redacted.

(Emphasis supplied.)

In this matter, Mr. Skutt provided additional information regarding the processing of your request and calculating the fee estimate. As noted previously, DHHS's preliminary search identified 868 potentially responsive records. Mr. Skutt stated that "[t]his does not mean 868 emails were identified" and "[o]ne email can have multiple items in it." Mr. Skutt further stated that, based on DHHS employees' experience, "[t]he average review time for an item is one minute on average" with fluctuation based on the nature and size of each item, and "[e]very record is reviewed to locate the item(s) identified by the OCIO search." Mr. Skutt advised that in some cases, "[o]nce identified, additional reviews may be necessary." In calculating the fee estimate, DHHS divided the 868 items by 60 minutes, resulting in "14.5 hours of estimated review time." Applying the exclusion for the first cumulative 8 hours, "[a] total of 6.5 hours was estimated as the cost for searching, identifying, reviewing, and physically redacting." It is our understanding that the actual hours spent fulfilling your records request were consistent with the invoices provided.

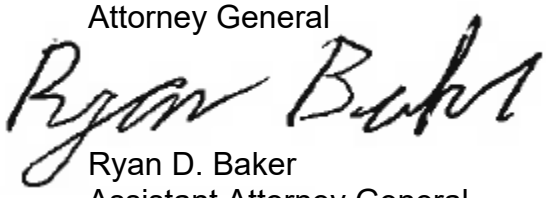
Based on the information provided by Mr. Skutt, we do not see any basis to conclude that the fee estimate charged by DHHS was excessive. Given the number of items identified and the description of DHHS's process for identifying responsive records and fulfilling your request, we conclude that the calculated fee estimate was consistent with the NPRS.

CONCLUSION

For the reasons set forth above, we conclude that DHHS did not charge an excessive fee estimate for the response to your records request. As a result, no further action by this office is warranted, and we are closing this file. If you disagree with our findings set out in this letter, you may wish to consult with an attorney to determine what, if any, additional remedies may be available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Ryan D. Baker
Assistant Attorney General

c: Thomas Skutt (via email only)

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