



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Administration

DIVISION OF PERSONNEL AND LABOR
RELATIONS

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www.doa.alaska.gov/dop/

July 5, 2022

VIA Email
Ben Goehring

Re: Request Received June 21, 2022

Dear Mr. Goehring:

On June 21, 2022, the Division of Personnel and Labor Relations (DOPLR) received your request for “electronic listings of all individuals employed within the offices of the Governor and Lieutenant Governor and all state agencies, commissions, and departments for each month from January 1, 2019 to May 31, 2022.” You seek “a spreadsheet, database, or delimited text file(s)—not paper records or a PDF created from data—with the following fields for each employee: full legal name, unique employee identification code, title, department or agency, race, gender, full-time/part-time status, location, hire date, termination date, civil service status, and gross annual salary.” You state that if DOPLR “cannot produce any of these fields,” you want DOPLR to “generate only the available variables”; you state that if “these data are not available at monthly intervals,” you want DOPLR to “produce the datasets at the most frequent interval possible”; and you state that you want “any lookup tables that may be needed to interpret the data.”

DOPLR does not have records that contain all the information you seek. Nor is DOPLR required to create them. *See* 2 AAC 96.210(b) (providing that an agency need not “compile or summarize its public records”); 2 AAC 96.210(c) (providing that an agency need not “manipulate its data to create new records”). However, DOPLR is providing the records it has for the period from January 1, 2019, to May 31, 2022, that contain much of the information you seek.

To the extent your request would require DOPLR to generate records that contain the information you want, it seeks electronic services and products under AS 40.25.115(a). This is because creating the records would constitute providing “computer-related services.” *See, e.g.,* AS 40.25.220(1)(A) (Electronic services and products include “electronic manipulation of the data contained in public records in order to tailor the data to the person’s request or to develop a product that meets the person’s request.”); AS 40.25.220(1)(B) (Electronic services and products include “duplicating public records in alternative formats not used by a public agency.”); AS 40.25.220(1)(E) (Electronic services and products including “providing functional electronic access to the information system of the public agency.”).

Responding to your request under AS 40.25.115(a)—i.e., generating the 41 monthly datasets you want—would require a substantial number of hours of personnel time. And if DOPLR did this work for you, it would need to do such work for any other member of the public. *See* AS 40.25.115(h) (stating an “agency may

not make electronic services and products available to one member of the public and withhold them from other members of the public”). Also, certain information you want—i.e., an employee’s gender, race, and identification number—is protected. *See, e.g.*, Alaska Const. art. I, § 22 (protecting the right to privacy); AS 39.25.080(a) (protecting, with certain exceptions, information in state personnel records of classified and partially exempt employees); *Griswold v. Homer City Council*, 428 P.3d 180, 187 (Alaska 2018); *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316, 1323 (Alaska 1982) (stating “a balance [must] . . . be struck between the public interest in disclosure on the one hand and the privacy and reputation interests of the affected individuals and the government’s interest in confidentiality, on the other”).

Accordingly, to the extent you seek electronic services and products, DOPLR denies your request because providing them to you and to other requesters would divert a substantial amount of personnel time; indeed, the work would take priority over DOPLR’s primary responsibilities. *See* AS 40.25.115(a) (stating that providing electronic services and products is discretionary and that providing them “may not take priority over the [agency’s] primary responsibilities”). Also, to the extent you seek electronic services and products, DOPLR denies your request because (1) you seek records containing protected information, and (2) you seek electronic records in a format other than PDF: DOPLR disseminates electronic records to members of the public only in PDF. *See, e.g.*, 2 ACC 210(a) (stating “a public record maintained by a public agency is available for inspection and copying in the format in which that agency maintains or disseminates the record”); 2 AAC 96.355 (stating “[u]pon receipt of a request complying with this chapter, a public agency shall provide a copy of a public record in the form in which it is maintained or disseminated by the public agency”).

However, because in response to requests from members of the public for single reports DOPLR periodically generates a PDF containing the information in the enclosed records, DOPLR would generate a PDF containing the following information as a snapshot in time for each active executive branch employee for any specific date you choose: full name; department or agency; location; position title; position status (e.g., fulltime or part-time); position control number; bargaining unit status; last hire date; and compensation.

Under the Alaska Public Records Act regulations, if any agency does not have requested records, the response constitutes a denial. *See* 2 AAC 96.335(a). Accordingly, DOPLR denies your request because it does not have the records you seek. You may administratively appeal by complying with 2 AAC 96.340. An administrative appeal requires no appeal bond. Also, you may seek immediate judicial review by pursuing an injunction under AS 40.25.125. Not pursuing an injunction will not adversely affect your rights before DOPLR, including in administratively appealing this denial. I have been delegated the authority to deny Alaska Public Records Act requests. Enclosed are 2 AAC 96.335 – 2 AAC 96.350.

To the extent you seek electronic services and products and DOPLR denies your request, this response is DOPLR’s final decision. Under Alaska Rules of Appellate Procedure 601 and 602, an appeal (if any) to the superior court must be taken within thirty days of the date of this letter.

If you have any questions, please contact me at 907-465-8429 or franklin.hurt@alaska.gov.

Sincerely,

Franklin Hurt
Employee Planning and Information Center Manager