



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

November 19, 2007

The Honorable Greg Abbott
Texas Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Attn.: Greg Simpson

RE: PUBLIC INFORMATION DECISION REQUEST

Dear General Abbott:

The Office of the Governor on November 6, 2007 received a public information request from John Washburn. Specifically, the request, a copy of which is enclosed, was for:

1. a copy of all governmental e-mail (electronic mail) received by the Office of the Governor of Texas which was received on or after 12:00 am (midnight) Friday, November 2, 2007 and received before 12:00 am (midnight) Tuesday, November 6, 2007.
2. I would like a copy of all governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Friday, November 2, 2007 and sent before 12:00 am (midnight) Tuesday, November 6, 2007.

Our office read the request to include emails for the entire days of Friday, Saturday, Sunday and Monday, November 2-5, 2007, but stopping shy of November 6, 2007.

Subsequently, Mr. Washburn submitted three additional public information requests for similar (though slightly different) documents. Please see the attached original requests. These requests came in on November 9, 2007, November 13, 2007 and November 16, 2007.

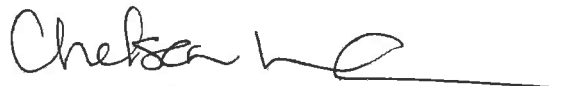
Our office asserts that part of the responsive information for all four public information requests is excepted from disclosure under the Public Information Act (PIA). The Office of the Governor will release the remainder of the information to Mr. Washburn upon receipt of payment for the labor costs of "locating, compiling, manipulating data, and reproducing" the responsive documents, pursuant to the Office of the Attorney General's rules for charges, found in Tex. Admin. Code § 70.3. For those documents considered by our office as excepted from disclosure, we respectfully invoke all of the exceptions provided by, and the exceptions incorporated into,

Sections 552.101 through 552.147 of the PIA. Pursuant to Section 522.301(a) of the PIA, this letter is to seek a decision whether the exceptions apply.

To assist in your review, the Office of the Governor will provide a brief of written comments in support of its position. The brief for the first request will be submitted not later than November 29, 2007, the 15th business day from the date the request was received. The subsequent briefs will be submitted by December 4, 2007, December 6, 2007 and December 11, 2007 respectively.

If you have any questions or need additional information, you may contact me at the address below or at (512) 463-1788.

Sincerely,

A handwritten signature in black ink, appearing to read "Chelsea Thornton", with a long horizontal line extending to the right.

Chelsea Thornton
Assistant General Counsel

cc: John Washburn

Enclosure:

Copy of PIRs

Abby Peck

From: tx-gov-pir@washburnresearch.org
Sent: Tuesday, November 06, 2007 2:45 AM
To: Cindy Counts; Public Records
Cc: ehu@kvue.com
Subject: PIA Request TX-PIARequest-20071006-A

TO:

Cindy Counts, Public Information Coordinator
 1100 San Jacinto
 Room 1200
 Austin, Texas 78701

Dear Ms. Counts

I must first state my displeasure that the current policy of the Office of the Governor of Texas is to destroy public records after seven days. Public records such as e-mails should be archived for at least one year. The retention period should be longer given the simplicity of archiving electronic data.

The following are requests for public records under the Texas Public Information Act (Texas Government Code, Chapter 552)

1. I would like a copy of all governmental e-mail (electronic mail) received by the Office of the Governor of Texas which was received on or after 12:00 am (midnight) Friday, November 2, 2007 and received before 12:00 am (midnight) Tuesday, November 6, 2007.
2. I would like a copy of all governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Friday, November 2, 2007 and sent before 12:00 am (midnight) Tuesday, November 6, 2007.

Since, by definition, e-mail is electronic, I would request that all the records produced as part of these PIA requests be provided in electronic form. If you have any questions you may contact me by telephone at 262-532-2850 (office) or 414-375-5777 (cell). If you need to send written correspondence to me, my postal address is:

John Washburn
 N128W12795 Highland Road
 Germantown, WI 53022

Definitions: In order to exclude e-mails from the public from these PIA request, the terms found in the PIA requests above are defined as follows:

1. *e-mail (electronic mail)* is defined by RFC 822 and includes any and all attachments.
2. *Office of the Governor of Texas* is defined as any e-mail with at least one address (From, To, Cc, and Bcc) within the domain tree of *governor.state.tx.us*.
3. *governmental e-mail* is defined as an e-mail where every address (From, To, and Cc) of the e-mail is an address within one or more of the following domain trees:
 - a. *state.tx.us* (State Government of Texas)
 - b. *XX.us* where: *XX* is the two character postal abbreviation for a state, territory, or

- protectorate. (e.g. *elections.state.wi.us* and *village.germantown.wi.us* from Wisconsin)
- c. a domain tree ending in the top level domain of *.gov* (e.g. *eac.gov* and *csrc.nist.gov* from the US Government)

Severability: This document creates a two open records requests under the Texas Public Information Act covering a multiplicity of records (one record per e-mail). These several requests are severable and are included in this single document for administrative simplicity and the thematic similarity of the records requested. It is understood that any delay in the production of records under one request or the inability to produce one or more records responsive to this requests will not delay or otherwise hinder the production of other records responsive to these requests.

Exemption from Production: If you contend that the any of the above records, or any of the parts thereof, are exempt from inspection, you are required hereby to state in writing, and with particularity, the statutory authority for the exemption and the reason or reasons for your conclusion that the record or parts thereof are so exempted.

Redaction: Redaction itself constitutes a claim for exemption for the portion of the record(s) redacted. As such you are required hereby to state in writing, and with particularity, the statutory authority for any redactions and the reason or reasons for your conclusion that the redacted item is exempt from disclosure.

Promptness: The Texas Public Information Act provides that a response to these PIA requests is due in ten business days. If the requested records cannot be produced in this time frame, then it is expected that the PIA process as illustrated by the [PIA FAQs page](#) produced by the Texas Attorney General will be followed.

Thank you for your time on this matter.

In Liberty,
John Washburn

Abby Peck

From: tx-gov-pir@washburnresearch.org
Sent: Friday, November 09, 2007 2:08 AM
To: Public Records
Cc: eh@kvue.com; jroot@star-telegram.com
Subject: PIA Request TX-PIARequest-20071009-A

TO:

Public Information Coordinator, Office of the Governor of Texas
1100 San Jacinto
Room 1200
Austin, Texas 78701

Dear Sir/Madam

I must first state my displeasure that the current policy of the Office of the Governor of Texas is to destroy public records after seven days. Please change this obnoxious archive policy (destruction of records after 7 days) to a more reasonable archive strategy. Public records such as e-mails should be archived for at least one year. The retention period should be longer given the simplicity of archiving electronic data.

The following are requests for public records and are made under the Texas Public Information Act (Texas Government Code, Chapter 552)

1. I would like a copy of all the email headers for each governmental e-mail (electronic mail) received by the Office of the Governor of Texas which was received on or after 12:00 am (midnight) Tuesday, November 6, 2007 and received before 12:00 am (midnight) Friday, November 9, 2007.
2. I would like a copy of all the email headers for each governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Tuesday, November 6, 2007 and sent before 12:00 am (midnight) Friday, November 9, 2007.

Since, by definition, e-mail is electronic, I would request that all the records produced as part of these PIA requests be provided in electronic form. If you have any questions you may contact me by telephone at 262-532-2850 (office) or 414-375-5777 (cell). If you need to send written correspondence to me, my postal address is:

John Washburn
N128W12795 Highland Road
Germantown, WI 53022

Definitions: In order to narrow these request and, thus, obviate any need for your office to exempt or redact any records requested under these PIA requests, the terms found in the PIA requests above are defined as follows:

1. *e-mail (electronic mail)* is defined by [RFC 822](#) and includes any and all attachments.
2. *e-mail header* is defined as every element of an email covered by [RFC 822](#) with the exception of the message text and email attachments. Email headers include, but are not limited to, the subject

line, the list of FROM addresses, the list of TO addresses, the list of CC addresses, and the list of BCC addresses. Email headers do not include email message text. Email headers do not include any files attached to an email record.

3. **Office of the Governor of Texas** is defined as any e-mail with at least one address (From, To, Cc, and Bcc) within the domain tree of *governor.state.tx.us*.
4. **governmental e-mail** is defined as an e-mail where every address (From, To, and Cc) of the e-mail is an address within one or more of the following domain trees:
 - a. *state.tx.us* (State Government of Texas)
 - b. *XX.us* where: *XX* is the two character postal abbreviation for a state, territory, or protectorate. (e.g. *elections.state.wi.us* and *village.germantown.wi.us* from Wisconsin)
 - c. a domain tree ending in the top level domain of *.gov* (e.g. *eac.gov* and *csrc.nist.gov* from the US Government)

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Exemption from Production: If you contend that the any of the above records, or any of the parts thereof, are exempt from production, you are required hereby to state in writing, and with particularity, the statutory authority for the exemption and the reason or reasons for your conclusion that the record or parts thereof are so exempted. If you are unsure if a record, or any of the part thereof, is exempt from production, please submit the record to the Office of the Attorney General of the State of Texas for an opinion on the correctness of the claimed exemption. Such opinions from the Attorney General satisfy the requirement to state with particularity the statutory authority for the exemption.

Redaction: Redaction itself constitutes a claim for exemption for the portion of the record(s) redacted. As such you are required hereby to state in writing, and with particularity, the statutory authority for any redactions and the reason or reasons for your conclusion that the redacted item is exempt from disclosure.

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Thank you for your time on this matter.

In Liberty,
John Washburn

Abby Peck

From: tx-gov-pir@washburnresearch.org
Sent: Tuesday, November 13, 2007 2:08 AM
To: Public Records; Cindy Counts
Cc: ehu@kvue.com; jroot@star-telegram.com; cody.garrett@gmail.com
Subject: PIA Request TX-PIARequest-20071013-A

TO:

Cindy Counts Public Information Coordinator, Office of the Governor of Texas
1100 San Jacinto
Room 1200
Austin, Texas 78701

Dear Sir/Madam

I must first state my displeasure that the current policy of the Office of the Governor of Texas is to destroy public records after seven days. Please change this obnoxious archive policy (destruction of records after 7 days) to a more reasonable archive strategy. Public records such as e-mails should be archived for at least one year. The retention period should be longer given the simplicity of archiving electronic data.

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2. I would like a copy of all the email headers for each governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Friday, November 9, 2007 and sent before 12:00 am (midnight) Tuesday, November 13, 2007.
3. I would like a copy of all the governmental e-mail (electronic mail) received by the Office of the Governor of Texas which was received on or after 12:00 am (midnight) Friday, November 9, 2007 and received before 12:00 am (midnight) Tuesday, November 13, 2007.
4. I would like a copy of all the governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Friday, November 9, 2007 and sent before 12:00 am (midnight) Tuesday, November 13, 2007.

Since, by definition, e-mail is electronic, I would request that all the records produced as part of these PIA requests be provided in electronic form.

I believe none of the records requested in paragraphs 1 or 2 above meet any of the 54 exceptions to the Public Records Act found in TGC 552, so I will be expecting the itemization of cost for these records within 10 days. As for the records covered by paragraphs 3 and 4 see the paragraphs below on Severability, Exemption, and Redaction. If you have any questions you may contact me by telephone at 262-532-2850 (office) or 414-375-5777 (cell). If you need to send written correspondence to me, my postal address is:

11/19/2007

John Washburn
 N128W12795 Highland Road
 Germantown, WI 53022

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1. *e-mail (electronic mail)* is defined by RFC 822 and includes any and all attachments.
2. *e-mail header* is defined as every element of an email covered by RFC 822 with the exception of the message text and email attachments. Email headers include, but are not limited to, the subject line, the list of FROM addresses, the list of TO addresses, the list of CC addresses, and the list of BCC addresses. Email headers do not include email message text. Email headers do not include any files attached to an email record.
3. *e-mail in electronic form* is defined as email data provided in any of the following data formats:
 - a. eXtensible Markup Language (XML),
 - b. Hypertext Markup Language (HTML),
 - c. Microsoft Access,
 - d. tab-delimited,
 - e. Pipe Delimited,
 - f. comma separated variable (CSV), or
 - g. or other non-proprietary format commonly used for exchanging data
4. *Office of the Governor of Texas* is defined as any e-mail with at least one address (From, To, Cc, and Bcc) within the domain tree of *governor.state.tx.us*.
5. *governmental e-mail* is defined as an e-mail where every address (From, To, and Cc) of the e-mail is an address within one or more of the following domain trees:
 - a. *state.tx.us* (State Government of Texas)
 - b. *XX.us* where: *XX* is the two character postal abbreviation for a state, territory, or protectorate. (e.g. *elections.state.wi.us* and *village.germantown.wi.us* from Wisconsin)
 - c. a domain tree ending in the top level domain of *.gov* (e.g. *eac.gov* and *csrc.nist.gov* from the US Government)

Severability: This document creates a four open records requests under the Texas Public Information Act and cover a multiplicity of records (one record per e-mail header and one per complete email). These requests and are severable as is the actual production of records. These severable items are included in this single document for administrative simplicity and the thematic similarity of the records requested. It is understood that any delay in the production of records under one request or the inability to produce one or more records responsive to these requests will not delay or otherwise hinder the production of other records responsive to these requests.

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disclosure.

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Thank you for your time on this matter.

In Liberty,
John Washburn

Abby Peck

From: tx-gov-pir@washburnresearch.org
Sent: Friday, November 16, 2007 2:08 AM
To: Public Records; Cindy Counts
Cc: ehu@kvue.com; jroot@star-telegram.com; cody.garrett@gmail.com
Subject: PIA Request TX-PIARequest-20071016-A

TO:

Cindy Counts Public Information Coordinator, Office of the Governor of Texas
1100 San Jacinto
Room 1200
Austin, Texas 78701

Dear Sir/Madam

I must first state my displeasure that the current policy of the Office of the Governor of Texas is to destroy public records after seven days. Please change this obnoxious archive policy (destruction of records after 7 days) to a more reasonable archive strategy. Public records such as e-mails should be archived for at least one year. The retention period should be longer given the simplicity of archiving electronic data.

The following are requests for public records and are made under the Texas Public Information Act (Texas Government Code, Chapter 552)

1. I would like a copy of all the email headers for each governmental e-mail (electronic mail) received by the Office of the Governor of Texas which was received on or after 12:00 am (midnight) Tuesday, November 13, 2007 and received before 12:00 am (midnight) Friday, November 16, 2007.
2. I would like a copy of all the email headers for each governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Tuesday, November 13, 2007 and sent before 12:00 am (midnight) Friday, November 16, 2007.
3. I would like a copy of all the governmental e-mail (electronic mail) received by the Office of the Governor of Texas which was received on or after 12:00 am (midnight) Tuesday, November 13, 2007 and received before 12:00 am (midnight) Friday, November 16, 2007.
4. I would like a copy of all the governmental e-mail (electronic mail) sent by the Office of the Governor of Texas which was sent on or after 12:00 am (midnight) Tuesday, November 13, 2007 and sent before 12:00 am (midnight) Friday, November 16, 2007.

Since, by definition, e-mail is electronic, I would request that all the records produced as part of these PIA requests be provided in electronic form.

I believe none of the records requested in paragraphs 1 or 2 above meet any of the 54 exceptions to the Public Records Act found in TGC 552, so I will be expecting the itemization of cost for these records within 10 days. As for the records covered by paragraphs 3 and 4 see the paragraphs below on Severability, Exemption, and Redaction. If you have any questions you may contact me by telephone at 262-532-2850 (office) or 414-375-5777 (cell). If you need to send written correspondence to me, my postal address is:

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