



STATE OF NEW MEXICO
Taxation and Revenue Department

An Equal Opportunity Employer

Susana Martinez
Governor

Demesia Padilla, CPA
Cabinet Secretary

Legal Services Bureau
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May 26, 2011

Via email only to: heath@haussamen.com

Heath Haussamen
Editor and Publisher, NM Politics.net
Haussamen Publications
4993 Rock Court
Las Cruces, NM 88012-0640

Re: Request to Inspect Public Records
IPRA CASE NUMBER: 11-0118

Dear Mr. Haussamen:

Your email correspondence dated April 25, 2011 requested the Taxation and Revenue Department ("TRD") provide you with the following documents. Our response is below.

"- An e-mail from TRD employee Lee A. Baca to Secretary of State employee Kenneth Ortiz that was sent March 10, 2011 at 8:59 a.m., and all attachments. The e-mail includes the subject line "RE: Voter file."

- An e-mail from Ortiz to Baca that was sent March 10, 2011 at 8:42 a.m., and all attachments. The e-mail includes the subject line "Voter file."

- An e-mail from TRD employee Rao Chad to Ortiz that was sent March 10, 2011 at 6:50 p.m., and all attachments, including the file "NO SNN.xls." The e-mail includes the subject line "Emailing: NO SNN.xls."

- An e-mail from TRD employee Venkata Dodda to Ortiz sent March 14, 2011 at 10:09 a.m. and all attachments. The e-mail includes the subject line "RE: SOS data matching against Foreign National Data."

- An e-mail from Ortiz to Dodda sent March 14, 2011 at 9:45 a.m. and all attachments. The e-mail includes the subject line "SOS data matching against Foreign National Data."

- An e-mail from Baca to Ortiz sent March 17, 2011 at 6:46 p.m., and all attachments. The e-mail includes the subject line "First File Complete."

Office of the Secretary
(505) 827-0341
Administrative Services
(505) 827-0369
Audit and Compliance
(505) 827-0900
Motor Vehicle
(505) 827-2296
Property Tax
(505) 827-0870
Revenue Processing
(505) 827-0800
Tax Fraud Investigations
(505) 827-0354

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- An e-mail from TRD employee Tirumal Rao to Baca, Ortiz, Venkata, Greg Saunders and Rama Bandapelli sent March 25, 2011 at 11:39 a.m., and all attachments. The e-mail includes the subject line "SSA - Checks remaining."

- An e-mail from Chad to Ortiz sent March 10, 2011 at 7:25 p.m., and all attachments, including the file "DuplicateSNNFromSOS.xls." The e-mail includes the subject line "DuplicateSNNFromSOS.xls."

- An e-mail from Chad to Ortiz and CC'ed to Baca and Jacque Y. Geoffrion, sent March 11, 2011 at 7:39 p.m., and all attachments, including the file "SOS Info.xls." The e-mail includes the subject line "SOS Info.xls."

- An e-mail from Baca to Ortiz, Saunders and Demesia Padilla, sent March 18, 2011, at 8:50 a.m., and all attachments, including the file "File 1 (1036).xls." The e-mail includes the subject line "First File."

- An e-mail from Chad to Ortiz, Geoffrion, Baca and Dodda, sent March 12, 2011, at 5:42 p.m., and all attachments, including the file "SOS Info.xls." The e-mail includes the subject line "SOS Info.xls."

- An e-mail from Chad to Ortiz, sent March 11, 2011, at 9:59 a.m., and all attachments, including the file "DuplicateDataInfo.xls." The e-mail includes the subject line "DuplicateDataInfo.xls."

- An e-mail from Chad to Ortiz, Baca and Geoffrion, sent March 16, 2011, at 3:47 p.m., and all attachments, including the file "FNAMEANDDOB_03162011.xls." The e-mail includes the subject line "FNAMEANDDOB_03162011.xls."

- An e-mail from Baca to Ortiz, sent March 18, 2011, at 11:38 a.m., and all attachments. The e-mail includes the subject line "SSA Verification."

RESPONSE: The requested records are available for inspection.

We should be clear it is our understanding that these same emails were requested from the Secretary of State and they chose to assert executive privilege over some or all parts of these emails. The Department does not feel executive privilege can be asserted, or would appropriately apply over these emails.

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However, pursuant to the Inspection of Public Records Act ("IPRA") §14-1-1A (4), "[e]very person has a right to inspect any public records of this state except . . . law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime." The Secretary of State's Office turned this investigation over to the State Police, which is continuing the investigation. The Department has decided to only redact those portions of the emails that we believe fall under the law enforcement records exception articulated in NMSA 1978, § 14-2-1(4). Furthermore, the Department will not be turning over the attachments to these emails also pursuant to the law enforcement exception. It is our understanding that the Secretary of State's Office did not assert the law enforcement exception because it had received advice from the Attorney General's Office that the exception was not available to it because it is not a law enforcement agency. However, the Deputy Attorney General has confirmed that the availability of this exception is based upon the nature and content of the documents rather than by the identity of the agency holding them.

To the extent you consider any of the Department's determination to be a denial, the person responsible for the denial is Nelson Goodin, Chief Counsel, Legal Services Bureau, P.O. Box 630, Santa Fe, NM 87504-0630, nelson.goodin@state.nm.us. (505) 827-2594.

Our search for the requested records is now complete. Please contact me at the above phone number to set up a time to review the records. According to the Inspection of Public Records Act, NMSA 1978, § 14-2-9(B) (1) and (3), a fee has been instituted for copying public records, payment of which is required in advance. The fee per page for copies is \$0.25. However, for this instance the Department is waiving your fee and sending you the scanned documents directly.

Thank you for affording us this opportunity to be of assistance to you.

Sincerely,



Patricia A. Silva

IPRA Records Custodian

Enclosures