

Sent: Tuesday, September 2, 2014 8:13 AM
Subject: Re: CMS visit - 9-3-14

Ms. McNeil

Just a follow up to last weeks email to be sure you received it and to better explain our visit tomorrow.

Below is a protocol I will be using when visiting your facility on September 3, 2014 at 9:00 am. I will bring with me a member of my staff and additionally an expert in the field of Electronic Discovery. Please read the below protocol and be prepared for my arrival.

1. I will observe CMS Personal Information Management Group employees conducting a search using the eDiscovery Accelerator software / Symantec Enterprise vault software and other discovery tools of the email databases located at Central Management Services.
2. The following keywords (not exclusive) will be used in order to locate relevant emails and attachments:
 1. "Neighborhood" (within 1 word of) "Recovery"
 2. "Violence" (within 1 word of) "Prevention"
 3. "VP" (within 1 word of) "Initiative"
 4. "Save" (within 1 word of) "Our" (within 1 word of) "Youth"
 5. "Governor" (within 10 words of) "Initiative"
 6. "Safe" (within 1 word of) "Communities"
 7. "Mentoring" (within 3 words of) "Jobs"
 8. "High" (within 1 word of) "Risk" (within 1 word of) "Communities"
 9. "Safety" (within 1 word of) "Net"
 10. "Stop" (within 2 words of) "Violence"
 11. "IVPA"
 12. "NRI"
 13. "Chicago" (within 1 word of) "Area" (within 1 word of) "Project"
 14. "Aldermen"
 15. "Aderman"
 16. "Austin"
 17. "West" (within 1 word of) "Chicago"
 18. "South" (within 1 word of) "Shore"
 19. "Auburn" (within 1 word of) "Gresham"
 20. "Englewood"
 21. "Breater" (within 1 word of) "Brand"
 22. "Roseland"
 23. "Humboldt"
 24. "North" (within 1 word of) "Lawndale"

25. "Garfield" (within 1 word of) "Park"
26. "Logan" (within 1 word of) "Square"
27. "Pilsen"
28. "Woodlawn"
29. "Grand" (within 1 word of) "Boulevard"
30. "Rogers"
31. "Brighton"
32. "Albany"

1. The searches will create a universe of presumptively responsive emails. From those presumptively responsive documents, I will search for and preliminarily withhold all presumptively privileged emails between counsel and state management by using the features inherent in the states search programs. This feature will segregate potentially relevant emails without displaying them to me or the operator of the system. However, the presumption of privilege shall not apply to all communications as further review will need to be completed by counsel for the Governor.
2. In order to separate potentially privileged emails a filter will be created that will bucket together any email sent or received from the following users accounts and deposit them into a container labeled 'Potentially Privileged':
 1. Allan Abinoja
 2. Rukhaya AliKhan
 3. Jason Boltz
 4. Jonathan Gunn
 5. Elizabeth Paton
 6. Jennifer Koehler
 7. Natalia Delgado
 8. Era Lauder milk
 9. Jay Stewart
 10. John Schomberg
 11. Adam Braun
 12. Lola Dada-Olley
 13. Velisha Haddox
 14. Iris Chavira
 15. Rukhaya AliKhan
 16. Sheila Henretta
 17. David Hall
 18. Roma Larson
 19. Dixie Peterson
 20. Janet Ahern
 21. Beth Solomon
 22. Sean O'Brien
 23. Junaid Afeef
 24. Simeon Kim
 25. Andrew Tessman
 26. Lisa Stephens
 27. William Barnes
 28. Joe Rose

29. Kenneth Tupy
30. Ken Tupy
31. Beth Compton
32. Brian Dunn
33. Mary-Lisa
34. Sullivan
35. Gail Niemann

1. The Governor's office shall receive the potentially privileged emails within 3 days of the search and shall conduct a privilege review within 30 days. If, after conducting the review, the Governor's counsel asserts an attorney-client privilege or a work product protection applies to any email, then he/she may withhold that email and list that email in a privilege log that will be submitted within 3 days of the review of the privilege emails.
2. The inadvertent production of any email or other information during discovery in this action shall be without prejudice to any claim that such material is protected by any legally cognizable privilege or evidentiary protection including, but not limited to, the attorney-client privilege or the work product doctrine, and no party shall be held to have waived any rights by such inadvertent production.
3. Upon written notice of an unintentional production by the Governor's office, the receiving party must promptly return or destroy the specified document and any hard copies the receiving party has and may not use or disclose the information until the privilege claim has been resolved.
4. In the event that the searches are stifled by the Governor's office, CMS Director Simone McNeil or the CMS PIM group, the parties may be subjected to a subpoena of the Commission in order to answer questions regarding the access and denial of access to records lawfully sought by the Commission.
5. It is my understanding that the Governor's office cannot make claim of attorney client materials or attorney work product for any email sent or received by Dr. Irving. In the Summer of 2013 after Dr. Irving ended her employment with the Governor's office, she was sent 9 PST files containing 107,892 emails sent and received by Dr. Irving by the Governor's IT staff member Ibarra. Any request for records would have been considered a FOIA request and all materials obtained via FOIA are subject to review by the General Public, let alone the Audit Commission. If the materials were sent inadvertently, there has been no attempt for the state to recover these files or charges filed for a breach of data security.
6. Even though the Governor's office may seek to withhold documents based on attorney client privilege, my position is that all of these files should be reviewed by the Legislative Audit Commission. In an Attorney General opinion (2009ASSIST243), it "It has been held a public official, by virtue of the office, is generally entitled to access information held by that public body, including information which might not necessarily be made available to or accessible by members of the general public." And a member "cannot be denied access to information relevant to the exercise of his or

her duties, including information that would not generally be subject to public disclosure"- Attorney General Opinion OP 32 – 1996.

Please let me know if you have any questions or concerns.

David Reis
State Representative - 109th Dist
o) 618-392-0108

Sent: Friday, August 29, 2014 2:43 PM

Subject: CMS visit - 9-3-14

Director McNeil,

As you know, I sent a letter to Governor Quinn last week asking for his cooperation with accurately and thoroughly searching out any and all emails relating to the NRI program. As of this afternoon I have received no response to that letter.

With that in mind, as I stated in my letter to the Governor, I will be arriving at Central Management Services BCCS 120 West Jefferson on September 3rd at 9:00 am. Upon my arrival I will need access to the eDiscovery Accelerator System, Symantec Enterprise Vault and employees under your control whom use these systems and conducted any previous search for records exempting former employee and Director Malcolm Weems. My understanding of the discovery system used to collect Electronically Stored Information (ESI) in response to the Commission's subpoenas possesses the capability to protect privilege documents.

I will be conducting searches on that system along with an eDiscovery expert whom will guide me through the process. The searches will be limited to the same time periods previously requested by the Commission. Additionally, all emails sent or received by any attorney will be segregated by the system into a bucket for review by counsel prior to release. The protocol I am using has been accepted by the courts in many cases with great success.

Please feel free to contact me with any questions and I hope to have full cooperation from you and your staff as we navigate through the discovery process for our NRI audit inquiries.

David Reis
State Representative - 109th Dist.