

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

July 18, 2018

The Honorable Tate Reeves
Lieutenant Governor
State of Mississippi
Post Office Box 1018
Jackson, Mississippi 39215

Dear Lieutenant Governor Reeves:

As Attorney General of the State of Mississippi, our office is investigating and evaluating all potential claims the State may have arising out of the recently-reported \$2 million "frontage road" project that would connect the Oakridge and Dogwood subdivisions with Dogwood Festival Boulevard and its shopping centers ("the road project"). The purpose of this investigation is to determine whether there exist any violations of Mississippi law. One of the many potential outcomes of the ongoing investigation could be civil litigation or other legal proceedings arising under state law.

State agencies, officials, employees, and former employees are required to preserve potentially relevant information that may be used as evidence in pending or reasonably foreseeable litigation. Once a party reasonably anticipates litigation, it must suspend its routine document retention/destruction policy and put in place a "litigation hold" to ensure the preservation of relevant documents. Employees must take every reasonable step to preserve this information until further notice. Failure to do so could result in imposition of sanctions for spoliation of evidence or obstruction of justice.

Please forward this letter to all current and former employees, including contract workers, who were employed by the Office of the Lieutenant Governor of Mississippi during any time between January 1, 2012, and the present. Accordingly, we caution all officials and staff who are working or have worked on any aspect of the road project, including the road project legislation, to be diligent and mindful of the need to preserve any potentially relevant information pertaining to it. Both electronically and traditionally stored information may be an important and irreplaceable source of evidence, whether stored at your office or home, and regardless of whether it is available on state or personal devices. Such information may be found in computers and computer tablets, including any network systems used in the relevant time period, cell phones, removable electronic media, laptop computers, home computers, and other electronic information

storage locations. Examples of such information are documents, notes, internal communications, and electronic information, including e-mails, text messages, and other electronic communications. Relevant information may also include word processing documents, spreadsheets, databases, calendars, telephone logs, internet usage files, and network access information.

The laws and rules prohibiting destruction of evidence apply to electronically stored information in the same manner that they apply to other evidence. Unlike paper documents, electronic information is easily deleted, modified or corrupted, and this sometimes happens automatically through the normal operations of your computer system. Accordingly, you must take reasonable steps to stop any alteration of, and to preserve, relevant information until the final resolution of this matter. This includes, but is not limited to, an obligation to discontinue any activities that could corrupt the data on computers which may contain information relating to this incident (such as data destruction, modifying files, and backup tape recycling policies). In addition, you should take steps to ensure that electronically stored information is maintained so as to preserve embedded "metadata" (internal computer data).

With the above laws and rules in mind, the following specific actions should be taken:

- a) Maintain relevant information as described above. Do not delete, throw out, shred, overwrite, alter, or otherwise destroy potentially relevant information, or allow deletion to happen by automatic deletion operations.
- b) Take affirmative steps to prevent the destruction of any potentially relevant information that has been transferred to a state records center or any other location according to your agency's document retention schedule.
- c) Preserve all data storage backup files that might contain relevant information. If you store backup information remotely, please notify the appropriate person(s) of this litigation hold notice.
- d) Preserve data from servers and networking equipment that log network access activity and system authentication.
- e) Preserve and retain all electronic data generated or received by employees who may have personal knowledge of the relevant facts. Steps should be taken to ensure that this electronic data is not altered, deleted (whether purposefully or inadvertently), modified or otherwise destroyed.


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- f) Ensure that you and your agency retain access to potentially relevant information that may otherwise be lost due to computer or electronic system upgrading, retirement, or reimaging.
- g) If potentially relevant electronically stored information has not been preserved, immediately contact your IT staff to see if it might be recoverable.

At this time, we are specifically requesting that you provide our office with copies of all communications, including but not limited to emails and text messages, between your office, the Mississippi Senate and/or the Mississippi Department of Transportation related to the road project. Please provide the requested records to our office by August 1, 2018. Any electronic communications must be provided in electronic format with metadata intact. If you need additional time, please email Special Assistant Attorney General Crystal Utley Secoy at cutle@ago.state.ms.us, or Special Assistant Attorney General Mary Jo Woods at mwood@ago.state.ms.us. If you require technical assistance regarding this matter, please contact Investigator Jay Houston at jhous@ago.state.ms.us.

Thank you for your attention to this matter, and if you have any questions, please contact our office as soon as possible. We would be happy to work with you in producing the requested documents and establishing procedures to preserve the relevant information, while at the same time proceeding in a way that is the least disruptive to your office.

Sincerely yours,


Jim Hood
Attorney General