



EMAIL, TEXTS & TWEETS: INFORMATION MANAGEMENT ISSUES FOR PUBLIC POWER UTILITIES

PRESENTED BY:

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AGENDA



- Challenge
- Pertinent laws
 - Texas Public Information Act
 - Local Government Records Act of 1989
- Interaction with and effect on prevailing communication platforms
- Best Practices
- Conclusion

CHALLENGE



- Explosion of information
- Stressed record management
- Varied methods of communicating

Utilities are creating and maintaining an increasing volume of information which needs to be readily accessible and properly maintained.



TEXAS PUBLIC INFORMATION ACT



- Based on the premise that information belonging to governmental entities belongs to the people
- Government in the sunshine
- Requires disclosure of requested public information
- Begin with the assumption that information is subject to required disclosure
- Fines and confinement



WHAT IS PUBLIC INFORMATION?



- Information
 - Written
 - Produced
 - Assembled
 - Collected
 - Maintained
- Pursuant to a law or ordinance or
- Connected with the transaction of official business



LOCAL GOVERNMENT RECORDS ACT OF 1989



- Requires local governments to adopt a program for the management of the
 - creation, use, maintenance, retention, preservation and disposal of records
 - for the purpose of reducing costs and improving efficiency
- Class A misdemeanor



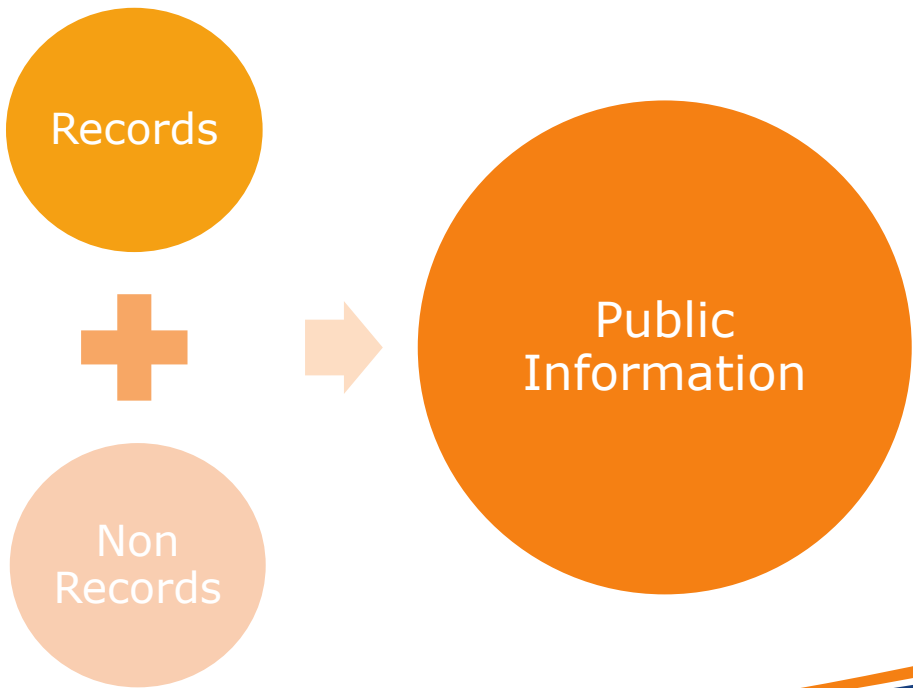
WHAT IS A RECORD?



- Record
 - Document that documents the transaction of public business
 - Created or received by local government
- Non-Records
 - Convenience copies
 - Blank forms
 - Reference materials



ALL RECORDS ARE PUBLIC INFORMATION, BUT NOT ALL PUBLIC INFORMATION IS A RECORD





ELECTRONIC COMMUNICATIONS





TPIA



- TPIA specifically applies to:

Instant messaging	Other electronic communications
Email	Internet posting

- 2013 amendments clarified “public information”:
 - Any electronic communication
 - Created, transmitted, or received
 - In connection with “official business”
 - any matter over which the governmental entity has authority, administrative or advisory duties



ADKISSON V. PAXTON



- TPIA Request
 - Personal email account
 - Content related to county business
 - Personal correspondence not requested
 - Held: Information subject to required disclosure
 - County owns any information created or received in the transaction of public business, even if contained in personal email accounts
 - No right to privacy exists because the messages are maintained in a personal email account



TPIA & SOCIAL MEDIA



- Facebook postings on city's FB page are public information (OR2016-23161)
 - FB terms of service provide posted information belongs to the page owner
 - Internal policy encouraged the use of social media to advance the goals and missions of the city
 - Public comments are records



TPIA & SOCIAL MEDIA



- Twitter:
 - emergency or outage alerts
- Instagram:
 - photos from a substation siting open house
- YouTube
 - safety presentations



TPIA & MESSAGING



- AG consistently finds that texts are public information when they are exchanged by public officials and employees because they transact business
- Texts that do not relate to government business are not public information



RM & EMAIL, TEXTS & TWEETS

- Email
- Texts
- Social media
- Should be retained as a record if:

Documents business
or evidences an
important process?
YES

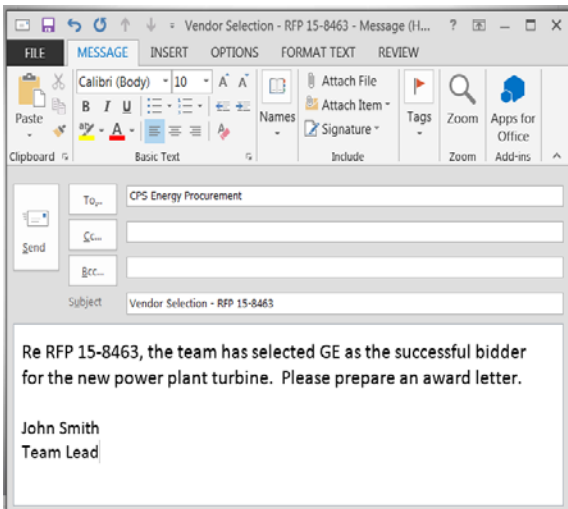
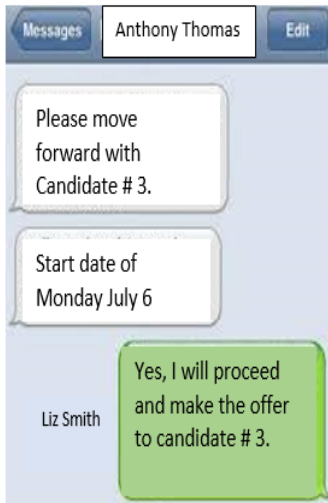
Exist elsewhere? NO

RETAINING ELECTRONIC RECORDS

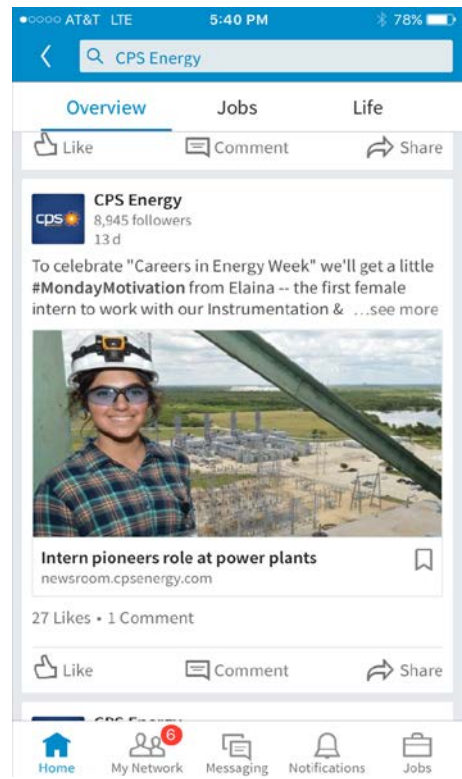


- Record should be authentic and whole:
 - Metadata
 - Links
 - Attachments
- Retention should be applied similar to paper records
- Various locations
 - Cloud storage
 - Content management system
 - Outlook files

RECORDS THAT SHOULD BE RETAINED



NON RECORDS





RETAINING ELECTRONIC RECORDS

- Social media capture / web crawler services
- Platform SLAs
- Platform native tools
- Application Programming Interfaces
- Manually
 - Copy & paste
 - Screenshots
- Print & file



BEST PRACTICES



- Policies
 - Social Media
 - Internal – who can create accounts & post
 - External – manage the expectations of users
 - Records Management
 - Electronically Stored Information
- Governance
- Tone at the Top
- Training

TAKEAWAYS



- Be mindful about what gets put in writing or texts
- Be thoughtful about the communication platforms you use
- Be thorough when responding to TPIA requests
- Practice good records management
- Monitor technology solutions



Questions?



Thank You

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