

To: John Dunleavy, Senior Assistant Attorney General, Agency of Transportation
CC: Toni Clithero, Assistant Attorney General, Agency of Transportation
Tom McCormick, Assistant Attorney General, Department of Motor Vehicles
From: Helena Gardner, Legislative Counsel
Re: Act 23 Questionnaire: AOT-related exemptions

1) Consolidated exemption for personally identifying information

Several exemptions address personally identifying information. The apparent purpose behind these exemptions is to protect information the disclosure of which would create a risk of identity theft or pose safety risks, or which is prohibited under federal law.

As a result, the Public Records Study Committee (“Committee”) is considering recommending a consolidated exemption as follows:¹

(c) The following public records are exempt from public inspection and copying and shall not be released:

* * *

(#) personally identifying information the disclosure of which creates an unreasonable risk of identity theft or of harm to a specific individual or is prohibited under federal law, including credit card information in the possession of a court or the Judicial Bureau as specified at 4 V.S.A. § 741; social security numbers to the extent provided in 9 V.S.A. § 2440(d); victim or survivor identifying information to the extent provided in 13 V.S.A. §§ 5322 and 5358a(c); the address or phone number of a crime victim who requests notification of release or escape to the extent provided in 13 V.S.A. § 5305; voter identifying information to the extent provided in 17 V.S.A. § 2154(b); and motor vehicle records to the extent provided in 23 V.S.A. § 104;

Questions:

- Do you object to the draft language above, and if so why?
- If you object only to the language, but not the concept of the consolidated identifying information exemption, could you suggest improvements to the language?

2) Amend 19 V.S.A. § 2603 to expand its scope?

During Toni Clithero’s testimony on October 4, 2013, concerning this exemption, she stated that 23 C.F.R. part 636 required a higher standard of confidentiality in connection with design-build bidding documents than would be afforded under 1 V.S.A. § 317(c)(9), the PRA’s default trade secret exemption. As an example, Toni cited records related to adverse performance reviews collected by AOT in connection with the prequalification process.

¹ This draft language will also be sent to Deputy Secretary of State Brian Leven, Susanne Young of the Attorney General’s Office, and Sarah London for comment.

Questions:

- It's not clear that adverse performance reviews are protected under the existing language of 19 V.S.A. § 2603. Do you agree? If so, could you offer a proposed amendment?