



governmentattic.org

"Rummaging in the government's attic"

Description of document: **Correspondence in the files of Alaska Office of the Attorney General from Sarah Palin, Governor of Alaska, 2007 – 2008**

Requested date: 01-October-2008

Released date: 14-October-2008

Posted date: 22-October-2008

Date/date range of document: 28-March-2007 – 24-June-2008

Source of document: Attorney General Talis J. Colberg
P.O. Box 110300
Juneau, AK 99811-0300
Tel: 907-465-2133
Fax: 907-465-2075
Email: attorney.general@alaska.gov

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

SARAH PALIN
GOVERNOR

LABOR & STATE AFFAIRS
1031 WEST 4th AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-6612
FAX: (907) 258-4978

October 14, 2008

Re: Request for records from the Office of the Attorney General
File No. 661-07-0290

In response to your revised request dated October 1, 2008, we have reviewed the requested reading files and, accordingly, are providing the following documents.

1. March 28, 2007 memorandum from Chief of Staff Mike Tibbles to Attorney General Talis Colberg regarding Criminal Division Plans (one page)
2. June 11, 2007 memorandum from Attorney General Talis Colberg to Governor Sarah Palin regarding Annual Outside Employment or Services Disclosure Due July 1, 2007 (five pages)
3. June 11, 2007 memorandum from Attorney General Talis Colberg to Lt. Governor Sean Parnell regarding Annual Outside Employment or Services Disclosure Due July 1, 2007 (five pages)
4. June 5, 2007 letter to Governor Sarah Palin regarding bill review for SCS CSHB 177 (FIN) (11 pages)
5. August 9, 2007 fax transmission from Attorney General Talis Colberg to Lt. Governor Parnell of letter from Senator French (five pages)
6. June 24, 2008 letter from Attorney General Talis Colberg to Linda Perez, Director of the Division of Administrative Services, Office of the Governor regarding extension of time to respond to public records request (one page).

Many of the documents that you requested are privileged. I have attached a privileged log. In addition to the documents listed in the privilege log, we are withholding documents that are confidential under the Alaska Executive Branch Ethics Act. Those documents are dated: January 2, 2007, January 22, 2007, February 7, 2007, February 8, 2007, February 21, 2007 and August 31, 2007.

October 14, 2008

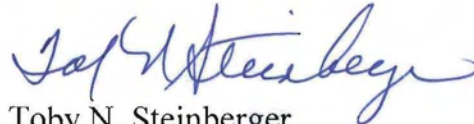
Page 2 of 2

Because we have withheld some information, we provide your appeal rights. They are set out in the attached provisions of 2 AAC 96.335 – 2 AAC 96.340. They include the right to administratively appeal complying with the procedures in 2 AAC 96.340, or to seek immediate judicial review of the denial by seeking an injunction from the superior court under AS 40.25.125. An election not to pursue injunctive remedies in superior court has no adverse effects on the rights of the requestor before the public agency. An administrative appeal from a denial of a request for public records requires no appeal bond.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By:

A handwritten signature in blue ink, appearing to read "Toby N. Steinberger", is written over the printed name.

Toby N. Steinberger
Assistant Attorney General
Labor & State Affairs Section

Michael Ravnitzky's Public Records Request
Privilege Log

10/14/2008

<i>Doc. No.</i>	<i>Date</i>	<i>Author</i>	<i>Recipient</i>	<i>Document Description</i>	<i>Privilege</i>
	02/20/07	Attorney General Talis Colberg	Governor Sarah Palin	Candidates for Superior Court Judgeship	Deliberative Privilege Executive Privilege 1994 Formal Op. Att'y Gen. 1 (Nov. 25, 1994)
	03/12/07	Attorney General Talis Colberg	Chief of Staff Mike Tibbles	Employment Status of Dept. of Law employee	AS 39.25.080
	05/29/07	Attorney General Talis Colberg	Governor Sarah Palin	Proposed bill review	Delibertative Privilege Executive Privilege
	08/18/08	Attorney General Talis Colberg	Governor Sarah Palin	Appointment of Independent Counsel	Attorney-Client Privilege Deliberative Privilege Executive Privilege

MEMORANDUM

STATE OF ALASKA DEPARTMENT OF LAW

TO: Mike Tibbles
Chief of Staff
Office of the Governor

DATE: March 28, 2007

FROM: Talis Colberg
Attorney General

TEL NO: 465-2133

SUBJECT: Criminal Division
Plans

As per our previous conversations, the Criminal Division is developing plans for improving the Kenai, Fairbanks, and Anchorage District Attorneys Offices. Here is the first plan for the Kenai office.

I know the Governor had expressed an interest in knowing the status of the plans for these improvements.

Attachment

MEMORANDUM

State of Alaska

Department of Law

TO: Sarah Palin
Governor

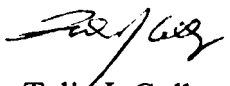
DATE: June 11, 2007

FILE NO.: 661-07-0012

TEL. NO.: 269-5279

FAX:

SUBJECT: Annual Outside Services
Disclosure Due July 1

FROM: 
Talis J. Colberg
Attorney General

Since I serve as your designated ethics supervisor, I want to remind you that the Alaska Executive Branch Ethics Act requires that all state employees report to their designated ethics supervisors any outside employment or services benefiting their personal or financial interests by July 1 of each year. Although elected to your position, you are considered a public employee under the Ethics Act and must comply with the reporting requirement, if appropriate.

However, the Ethics Act also precludes "the head of a principal executive department of the state" from engaging in "outside employment."¹ The Office of the Governor is a principal department of the state.² Therefore, as head of that office, you may not be engaged in outside employment. We construe "employment" to have its ordinary meaning. If you render other services that benefit your personal or financial interests, such as sitting as a member of a board for a reason unrelated to your position as governor, and receive any form of compensation, such as per diem, travel reimbursement or other benefit, you would need to disclose those activities. You must also report volunteer or non-compensated work, if there is any possibility that the work might conflict with your official state duties.

I have attached a handout answering "Frequently Asked Questions" about these requirements for your information. Reports are made on the Outside Employment or Services Notification form. A copy is attached. The form is also available at <http://www.law.state.ak.us/doclibrary/ethics.html>. Please forward any disclosure to me for review. I will provide you a copy of an approved disclosure or contact you if I have any concern about the disclosed matter.

¹ AS 39.52.170(c).

² AS 44.17.005.

ETHICS DISCLOSURE FORM

Outside Employment or Services Notification

To: _____, Designated Ethics Supervisor
(Department or Agency)

In accordance with AS 39.52.170(b), I am providing notice of my employment or provision of services for compensation outside the _____ (agency).

Note: You are not required to disclose volunteer work unless it is a potential conflict with your state duties or you receive any type of compensation, including travel or meals.

This employment or service consists of the following (describe in detail, attach separate sheet as needed):

Hours and days of the week _____

If you work as an independent contractor or a consultant, please attach a list of your clients.

Note: If your outside job duties are the same or similar to your State service, or if you will be dealing with people or entities with whom you deal or may deal as part of your official duties, you must explain why no potential conflict exists between your outside employment and your official duties. If a potential conflict exists, you must refrain from taking any action until it is approved by your designated ethics supervisor. See AS 39.52.210.

I certify that I will not use or allow the use of any State owned/operated facilities, supplies, equipment, vehicles, or personnel time and effort for any employment outside State service, and that my outside duties will not affect my usual State duties or duty hours in this Department. I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division, Agency)

(Position Title)

(Location)

Recommendation: _____ Approve _____ Disapprove

(Work Supervisor's Signature)

(Date)

_____ Approved _____ Disapproved

(Designated Ethics Supervisor's Signature)

(Date)

Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If the employment is disapproved or other action is necessary under AS 39.52.210 please attach a determination. A copy of the determination must be sent to the attorney general at the following address: State Ethics Attorney, Office of the Attorney General, Department of Law, 1031 West 4th Avenue, Suite 200 Anchorage, Alaska 99501-1994

Frequently Asked Questions About Outside Employment and Volunteer Services

State employees often have other jobs or businesses and participate in volunteer activities. The State has no interest in these activities unless they are incompatible with or conflict with your state duties. The Executive Branch Ethics Act addresses this concern.

1. Why do I have to disclose outside employment?

The Ethics Act requires you to submit an annual disclosure by July 1 and updates as changes occur. You submit your disclosure through your work supervisor to your agency's Designated Ethics Supervisor for review. In this way, we ensure that employee activities are compatible with official duties.

2. What do I have to disclose?

- Any compensated employment;
- Any volunteer activity, if you receive any type of compensation, such as payment for travel or meals; and
- Any other volunteer or non-compensated work, if there is a possibility that such work conflicts with your official state duties.



3. What does “outside employment” include?

- Any employment for which you are paid, but not your state employment.
- Examples: a job with another employer, work as an independent contractor, and work in your own business.

4. Where does the Ethics Act address volunteer activities?

The statute (AS 39.52.170(a)) restricts public employees from providing services that benefit a personal interest if those services are incompatible or in conflict with the proper performance of official duties. The companion regulation (9 AAC 52.090) clarifies that “service” includes volunteer activities.

5. Do I have to list all my volunteer activities or membership in organizations?

No. You only need to disclose volunteer service if it is possible that your service may conflict with your official duties or you receive compensation. If your volunteer service is with an organization or for an activity that has no relationship to, or overlap with, your official duties and you receive no compensation, you do not have to disclose this volunteer service. When deciding what to report, consider the scope of your official duties and the specific volunteer activity you do. If you have a volunteer interest that is closely related to your official work duties, you should file a disclosure.

6. I volunteer my services to an organization that works on issues similar to those before my department. Do I have to discontinue my membership?

Not necessarily. The Ethics Act recognizes that public officers have outside interests. Membership in an organization with interests or issues similar to those of your department itself does not constitute a conflict. However, if you actively volunteer to work on issues for the organization related to your department's responsibilities, you must tailor your activities to ensure no conflict exists with your official duties. Otherwise your participation will likely be disapproved.

Please keep in mind that the purpose of the disclosure is to identify potential conflicts, provide you the opportunity to design your volunteer efforts to eliminate conflicts, and create a record of compliance with the Ethics Act if questions are asked or complaints brought to the Department suggesting that you have a conflict.



7. Do all employees have to file? Are there exceptions?

All employees involved in outside employment or volunteer activities, as described above, must file a disclosure by July 1 30 each year. Employees with no outside employment or reportable volunteer activities do not need to file a disclosure.

8. My outside employment or volunteer activities have not changed since I filed last June. Do I still have to file this June?

Yes, an annual disclosure is required whether or not there has been a change from the previous year's report.

9. What if my employment situation changes during the year?

If your outside employment or volunteer service changes during the course of the year, you are required to file a notice of the change in a timely manner. A good rule of thumb is to file within 30 days of any change to ensure compliance.

10. How do I file?

Use the ethics disclosure form titled: *Outside Employment or Service Notification*, dated December 2006. The form is available on Department of Law ethics webpage at <http://www.law.state.ak.us/doclibrary/ethics.html> or from your Designated Ethics Supervisor. The form requires your work supervisor's recommendation and signature. After completing the form, including the required supervisor's signature, your supervisor should forward it to your Department's Designated Ethics Supervisor.

11. What happens to the disclosures I file?

The Designated Ethics Supervisor reviews your disclosure to make sure your outside activities are compatible with your state job. You may be contacted for more information about the nature of both your state responsibilities and your outside employment or volunteer activities. If there is no conflict with your state job, the Ethics Supervisor signs the form and returns a copy to you for your records. In some cases, you may receive a memo with specific restrictions or instructions about your outside employment or volunteer activities. In rare instances, you may be told you can't participate in the volunteer activity or outside employment if you want to keep your state position.

12. How is a conflict determined?

Your Designated Ethics Supervisor considers –

- Whether the activity will take time away from your official duties.
- Whether the activity inappropriately limits what you can do in your state job without triggering a conflict.
- Other circumstances suggesting an incompatibility or conflict with your job.

13. What can I do to help the annual reporting go smoothly?

You should provide enough information about your outside employment, including when you do this work, so that your ethics supervisor can evaluate whether there is a conflict with your official state duties. If you are a consultant or independent contractor, you need to attach a list of your clients.

14. Where can I get more information about the Ethics Act?

The Department of Law's website at www.law.state.ak.us/doclibrary/ethics.html has guidance available addressing other topics with examples to explain the topics. You may also contact your department's Designated Ethics Supervisor.

WHEN IN DOUBT, DISCLOSE!



MEMORANDUM

State of Alaska

Department of Law

TO: Sean Parnell
Lieutenant Governor

DATE: June 11, 2007

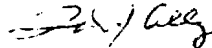
FILE NO.: 661-07-0013

TEL. NO.: 269-5279

FAX:

FROM: Talis J. Colberg
Attorney General

SUBJECT: Outside Employment or Services
Disclosures Due July 1



Since I serve as your designated ethics supervisor, I want to remind you that the Alaska Executive Branch Ethics Act requires that all state employees report to their designated ethics supervisors any outside employment or services benefiting their personal or financial interests by July 1 of each year. Although elected to your position, you are considered a public employee of the Office of the Governor under the Ethics Act. Therefore, you should report if you hold any other employment or render any services for which you receive compensation, including salary, self employed earnings, per diem, travel reimbursement or other compensation or benefit. You must also report any volunteer or non-compensated work, if there is any possibility that the work might conflict with your official state duties.

I have attached a handout answering "Frequently Asked Questions" about these requirements for your information.

Reports are made on the Outside Employment or Services Notification form. A copy is attached. The form is also available at <http://www.law.state.ak.us/doclibrary/ethics.html>. Please forward any disclosure to me for review. I will provide a copy of an approved disclosure or contact you if I have any concern about the disclosed matter.

ETHICS DISCLOSURE FORM

Outside Employment or Services Notification

To: _____, Designated Ethics Supervisor
(Department or Agency)

In accordance with AS 39.52.170(b), I am providing notice of my employment or provision of services for compensation outside the _____ (agency).

Note: You are not required to disclose volunteer work unless it is a potential conflict with your state duties or you receive any type of compensation, including travel or meals.

This employment or service consists of the following (describe in detail, attach separate sheet as needed):

Hours and days of the week _____

If you work as an independent contractor or a consultant, please attach a list of your clients.

Note: If your outside job duties are the same or similar to your State service, or if you will be dealing with people or entities with whom you deal or may deal as part of your official duties, you must explain why no potential conflict exists between your outside employment and your official duties. If a potential conflict exists, you must refrain from taking any action until it is approved by your designated ethics supervisor. See AS 39.52.210.

I certify that I will not use or allow the use of any State owned/operated facilities, supplies, equipment, vehicles, or personnel time and effort for any employment outside State service, and that my outside duties will not affect my usual State duties or duty hours in this Department. I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Division, Agency)

(Position Title)

(Location)

Recommendation: _____ Approve _____ Disapprove

(Work Supervisor's Signature)

(Date)

_____ Approved _____ Disapproved

(Designated Ethics Supervisor's Signature)

(Date)

Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If the employment is disapproved or other action is necessary under AS 39.52.210 please attach a determination. A copy of the determination must be sent to the attorney general at the following address: State Ethics Attorney, Office of the Attorney General, Department of Law, 1031 West 4th Avenue, Suite 200 Anchorage, Alaska 99501-1994

Frequently Asked Questions About Outside Employment and Volunteer Services

State employees often have other jobs or businesses and participate in volunteer activities. The State has no interest in these activities unless they are incompatible with or conflict with your state duties. The Executive Branch Ethics Act addresses this concern.

1. Why do I have to disclose outside employment?

The Ethics Act requires you to submit an annual disclosure by July 1 and updates as changes occur. You submit your disclosure through your work supervisor to your agency's Designated Ethics Supervisor for review. In this way, we ensure that employee activities are compatible with official duties.

2. What do I have to disclose?

- Any compensated employment;
- Any volunteer activity, if you receive any type of compensation, such as payment for travel or meals; and
- Any other volunteer or non-compensated work, if there is a possibility that such work conflicts with your official state duties.



3. What does “outside employment” include?

- Any employment for which you are paid, but not your state employment.
- Examples: a job with another employer, work as an independent contractor, and work in your own business.

4. Where does the Ethics Act address volunteer activities?

The statute (AS 39.52.170(a)) restricts public employees from providing services that benefit a personal interest if those services are incompatible or in conflict with the proper performance of official duties. The companion regulation (9 AAC 52.090) clarifies that “service” includes volunteer activities.

5. Do I have to list all my volunteer activities or membership in organizations?

No. You only need to disclose volunteer service if it is possible that your service may conflict with your official duties or you receive compensation. If your volunteer service is with an organization or for an activity that has no relationship to, or overlap with, your official duties and you receive no compensation, you do not have to disclose this volunteer service. When deciding what to report, consider the scope of your official duties and the specific volunteer activity you do. If you have a volunteer interest that is closely related to your official work duties, you should file a disclosure.

6. I volunteer my services to an organization that works on issues similar to those before my department. Do I have to discontinue my membership?

Not necessarily. The Ethics Act recognizes that public officers have outside interests. Membership in an organization with interests or issues similar to those of your department itself does not constitute a conflict. However, if you actively volunteer to work on issues for the organization related to your department's responsibilities, you must tailor your activities to ensure no conflict exists with your official duties. Otherwise your participation will likely be disapproved.

Please keep in mind that the purpose of the disclosure is to identify potential conflicts, provide you the opportunity to design your volunteer efforts to eliminate conflicts, and create a record of compliance with the Ethics Act if questions are asked or complaints brought to the Department suggesting that you have a conflict.



7. Do all employees have to file? Are there exceptions?

All employees involved in outside employment or volunteer activities, as described above, must file a disclosure by July 1 30 each year. Employees with no outside employment or reportable volunteer activities do not need to file a disclosure.

8. My outside employment or volunteer activities have not changed since I filed last June. Do I still have to file this June?

Yes, an annual disclosure is required whether or not there has been a change from the previous year's report.

9. What if my employment situation changes during the year?

If your outside employment or volunteer service changes during the course of the year, you are required to file a notice of the change in a timely manner. A good rule of thumb is to file within 30 days of any change to ensure compliance.

10. How do I file?

Use the ethics disclosure form titled: *Outside Employment or Service Notification*, dated December 2006. The form is available on Department of Law ethics webpage at <http://www.law.state.ak.us/doclibrary/ethics.html> or from your Designated Ethics Supervisor. The form requires your work supervisor's recommendation and signature. After completing the form, including the required supervisor's signature, your supervisor should forward it to your Department's Designated Ethics Supervisor.

11. What happens to the disclosures I file?

The Designated Ethics Supervisor reviews your disclosure to make sure your outside activities are compatible with your state job. You may be contacted for more information about the nature of both your state responsibilities and your outside employment or volunteer activities. If there is no conflict with your state job, the Ethics Supervisor signs the form and returns a copy to you for your records. In some cases, you may receive a memo with specific restrictions or instructions about your outside employment or volunteer activities. In rare instances, you may be told you can't participate in the volunteer activity or outside employment if you want to keep your state position.

12. How is a conflict determined?

Your Designated Ethics Supervisor considers –

- Whether the activity will take time away from your official duties.
- Whether the activity inappropriately limits what you can do in your state job without triggering a conflict.
- Other circumstances suggesting an incompatibility or conflict with your job.

13. What can I do to help the annual reporting go smoothly?

You should provide enough information about your outside employment, including when you do this work, so that your ethics supervisor can evaluate whether there is a conflict with your official state duties. If you are a consultant or independent contractor, you need to attach a list of your clients.

14. Where can I get more information about the Ethics Act?

The Department of Law's website at www.law.state.ak.us/doclibrary/ethics.html has guidance available addressing other topics with examples to explain the topics. You may also contact your department's Designated Ethics Supervisor.

WHEN IN DOUBT, DISCLOSE!



STATE OF ALASKA

DEPARTMENT OF LAW

**SARAH PALIN,
GOVERNOR**

P.O. Box 110300
Juneau, Alaska 99811-0300
Phone: (907) 465-3600
Fax: (907) 465-2075

June 5, 2007

The Honorable Sarah Palin
Governor
State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Re: SCS CSHB 177 (FIN) -- relating to the
Alaska Gasline Inducement Act;
providing inducements for the
construction of a natural gas pipeline and
shippers that commit to use that pipeline;
establishing the Alaska Gasline
Inducement Act reimbursement fund;
providing for an Alaska Gasline
Inducement Act coordinator; and making
conforming amendments
Our file: 883-07-0065

Dear Governor Palin:

At the request of your legislative director, we have reviewed SCS CSHB 177(FIN), the Alaska Gasline Inducement Act (AGIA or the Act), which establishes a competitive process to facilitate construction of a natural gas pipeline to transport Alaska's natural gas from the North Slope to markets, to promote exploration and development of North Slope oil and gas resources, and to encourage oil and gas lessees and other persons to commit to ship natural gas on a project licensed under the Act. For

organizational purposes, this review is arranged by topic rather than by section number.¹

I. Competitive process for awarding a natural gas pipeline project license under AGIA

Section 1 of this bill establishes an Alaska Gasline Inducement Act license to be awarded on a competitive basis to an applicant that proposes a pipeline project that offers the maximum benefit to the people of Alaska. The licensee is entitled to state matching funds of up to \$500 million toward construction of a natural gas pipeline project. To provide financial stability early in the project, this section also provides royalty and tax inducements to encourage oil and gas leaseholders and others to enter into firm commitments during the first binding open season of the project to acquire capacity for shipping gas in the proposed pipeline.

The state matching contribution will be paid to the licensee over seven years through reimbursement of qualified expenditures toward obtaining a certificate from the appropriate state or federal regulatory agency to construct a natural gas pipeline. The matching contribution does not include the costs of overhead, litigation, lobbying,

¹ The bill has nine sections, with the core provisions in Section 1. Section 1 sets out the Alaska Gasline Inducement Act. Sections 2 through 5 are conforming amendments: Section 2 amends AS 36.30.850(b) to exempt from the State Procurement Code contracts for an arbitration panel, development of application provisions, and evaluation of applications; Section 3 amends AS 38.05.020(b) to authorize the commissioner of natural resources to carry out the provisions of this Act; Section 4 amends AS 39.25.110 to include the Alaska Gasline Inducement coordinator; and Section 5 amends AS 40.25.120(a) to exempt from the Alaska public records laws proprietary, privileged, or trade secret information under AS 43.90.150 and AS 43.90.220(e), and AGIA license applications until public notice is provided under AS 43.90.160. Several sections amend the uncodified law: Section 6 expresses legislative intent that the first request for applications be issued within 90 days after the effective date of this Act; Section 7 expresses legislative intent that the courts expedite the resolution of cases brought under this Act; Section 8 provides for severability if any provision or application of this Act is held invalid; and Section 9 provides for an immediate effective date.

existing assets, or fines and penalties, among others.² State matching contributions will be disbursed from a fund established under AS 43.90.400 for legislative appropriations.³

AS 43.90.440 grants the licensee assurances of exclusivity before commencement of commercial operations of the licensed project. If the state extends to another person preferential tax or royalty treatment or a monetary grant for the purpose of facilitating construction of a competing natural gas pipeline project in this state from the time a license is awarded under this Act until commencement of commercial operations of the licensed project, the state must pay damages equal to three times the licensee's qualified expenditures.

AS 43.90.120 establishes an open competitive qualified public process for awarding a license. The commissioners of revenue and natural resources, acting jointly, are directed to develop and publish a request for applications for a license that entitles the licensee to receive state matching contributions.⁴ AS 43.90.130 establishes requirements that applications must meet before they will be considered. In general, they include:

- a detailed description of a gas pipeline project or projects including the route, economic feasibility, management of cost overruns, budget and completion timeline, gas receipt and delivery points, including at least five offtake points in Alaska, and distance sensitive rates to the offtake points;

² AS 43.90.220 requires the licensee to maintain complete and accurate records all of expenditures and commitments of state matching contributions for seven years.

³ State matching contributions are subject to legislative appropriation to the Alaska Gasline Inducement Act reimbursement fund, AS 43.90.400. As established this provision does not violate the prohibition against dedicated funds in art. IX, sec. 7 of the Constitution of the State of Alaska. *See e.g. Myers v. Alaska Housing Finance Corporation*, 68 P.3d 386 (Alaska 2003).

⁴ The application process is exempt from the State Procurement Code, AS 36.30. (SCS CSHB 177(FIN), sec. 2).

- a date certain to hold a binding open season and apply to the regulatory agency for certificated authorization to construct the pipeline project;⁵
- to the extent permitted by law, commit to provide jobs for Alaskans, negotiate a project labor agreement for pipeline construction, establish hiring facilities in the state, use state job centers and services, and commit to negotiate a project labor agreement, which is defined as a comprehensive collective bargaining agreement;
- manage pipeline tariffs by offering rates based on a capital structure that includes at least 70 percent debt;
- commit to reasonable pipeline expansion terms to accommodate new gas discoveries; and
- demonstrate the licensee's readiness, financial resources, and technical ability to perform the commitments.

AS 43.90.140 provides for initial review of all applications for completeness, and requests for additional information before an application is rejected as incomplete. After the commissioners determine the applications are complete, they will be made available for a 60-day public notice review and comment period under AS 43.90.160.

AS 43.90.170 establishes competitive evaluation criteria for evaluating and ranking each application. In general, the criteria evaluate the monetary value of the proposal to the state in terms of time, cost, and management of cost overruns, design capacity, and expansion provisions, likelihood of success of the proposed project considering the reasonableness and feasibility of the work plan, timeline, budget, and the applicant's financial capability and track record.

AS 43.90.180 provides that if the commissioners determine that an application merits award of a license, they must issue a determination and written finding to that effect, publish notice and provide the legislature with notice of intent to issue a license. The commissioners' determination to award a license becomes effective on the effective date of a bill approving the issuance of a license under AS 43.90.190. If the

⁵ "Open season" is defined as the process that complies with 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or a similar process for soliciting commitments for pipeline capacity under the regulations, policies, rules, or precedent of the Regulatory Commission of Alaska. AS 43.90.900(17).

commissioners determine that no application merits award of a license, they must issue a written finding, which is a final agency action when issued.

II. Legislative approval and commissioners' issuance of a license

AS 43.90.180 requires the commissioners to provide the legislature with notice of intent to issue a license. If the legislature passes a bill approving issuance of the license within 60 days after receiving the notice, the commissioners shall issue the license as soon as practicable.

The AGIA does not authorize the commissioners to actually issue a license until the legislature passes a bill approving issuance. Insofar as this provision may raise separation of powers questions under the Constitution of the State of Alaska,⁶ the Department of Law previously recognized on review of a similar legislative enactment that "the executive is free as a matter of comity to acquiesce in what amounts to the legislature's request for more active oversight."⁷ We noted that executive comity is particularly appropriate in circumstances that involve the state's fiscal regime – a subject substantially under the purview of the legislative branch. In the AGIA, the \$500 million state matching contribution is clearly under the purview of the legislative branch's appropriation powers, and the gas production tax exemption falls under the legislature's constitutional taxing powers.

Because the governor may acquiesce to the legislature's oversight under the AGIA, we believe this section could be viewed as evidencing the governor's freedom to acquiesce as a matter of comity. As with the previous legislation, it is "far from clear" that the legislature's approach would, in fact, violate the separation of powers doctrine.⁸ The legislature arguably has not usurped an executive function, but has divided its delegation of authority into two steps, rather than the traditional one.⁹ Keeping in mind

⁶ See *Bradner v. Hammond*, 553 P.2d 1, 5 (1976) (citing *Myers v. United States*, 272 U.S. 52 (1926) (the threshold question under the separation of powers doctrine is whether the power that will be exercised by a branch of state government is a proper function of that branch)).

⁷ 1998 Alaska Op. Atty. Gen. 122, Page 2, 1999 WL 638618 (Alaska A.G.), on review of SCS CSHB 393(FIN).

⁸ *Id.*

⁹ *Id.*

that, if possible, legislation should be construed to avoid the possibility of unconstitutionality, we believe this provision reasonably can be construed as not violative of the separation of powers.

III. Confidential information and public review of applications

The bill recognizes that the state may need to review company confidential information in order to determine whether a proposal is in the state's best interest. AS 43.90.150 provides that information "the applicant identifies and demonstrates is proprietary or is a trade secret is confidential and not subject to public information disclosure under AS 40.25." Under AS 43.90.160, however, an applicant's confidential information may be provided to the legislative auditor, the fiscal analyst who serves as head of the legislative finance division, members of the legislature, and their respective agents and contractors under confidentiality conditions. In addition, AS 43.90.160 provides that the applications are exempt from the public records laws and not subject to public disclosure until the commissioners publish notice.¹⁰

Recognizing also that the people of the state have a right to know the basis for administrative decisions affecting their welfare, the bill requires applicants to provide a summary of all confidential information. When the commissioners publish notice under AS 43.90.160, all non-confidential information and the confidential information summaries submitted by the applicants summaries will be made public.

By limiting confidential treatment to information that the applicant has shown to be proprietary or a trade secret, and requiring that summaries of confidential information be made public, the bill strikes a balance between the state's interest in encouraging applicants to submit information that will enable a fair evaluation of all proposals while maintaining the right of companies to keep proprietary and trade secret information out of the hands of their competitors.

IV. Jobs and training for Alaskans

An important goal of this legislation is to facilitate the training and hiring of Alaskans and promote a stable workforce in all phases of the construction and operation of a licensed gas pipeline project.

¹⁰ SCS CSHB 177(FIN), sec. 5.

AS 43.90.130(15) requires, "to the maximum extent permitted by law," that applicants commit to hire qualified residents from throughout the state for a range of positions on the proposed project; contract with businesses located in the state; establish hiring facilities or use existing hiring facilities in the state; and use, as far as is practicable, the job centers and services operated by the Department of Labor and Workforce Development and an Internet-based labor-exchange system operated by the state. The "Alaska hire" provisions are expressly constrained to "the maximum extent permitted by law." This requirement does not prohibit other methods of hiring, nor does it limit potential employment to persons residing in the state. We see no constitutional problems with this aspect of the bill.

To ensure stability of the workforce and timeliness of the project, AS 43.90.130(17) requires applicants to commit "to negotiate, before construction, a project labor agreement to the maximum extent permitted by law." Project labor agreement is defined as "a comprehensive collective bargaining agreement between the licensee or its agent and the appropriate labor representatives to ensure expedited construction with labor stability for the project by qualified residents of the state." On large projects such as the gas pipeline contemplated under this bill, such agreements are commonplace. Mandating a project labor agreement supports the state's legitimate interests in facilitating construction of the gas line as soon as possible to ensure that the state will receive royalty income at the earliest possible time. Timely completion of the gas line will also reduce the overall cost of the project, again reducing the impact on the tariffs charged to those shipping gas through the line, thereby maximizing the state's return.

AS 43.90.470 directs the commissioner of labor and workforce development to develop a job training program that will provide training for Alaskans in a range of gas pipeline project positions. While the term "Alaskans" may raise questions under the federal commerce clause, it is certainly possible to implement this provision without improperly restricting interstate commerce. We recommend that the commissioner of labor and workforce development take into consideration interstate commerce and equal protection concerns when developing the training program to avoid any legal impediments.

V. Judicial review

The provisions of this bill that place limitations on judicial review are within the scope of the legislature's authority under art. II, sec. 21, of the Constitution of the State of Alaska, which grants to the legislature the sole power as sovereign to pass laws establishing procedures for suits against the state.¹¹

AS 43.90.420 establishes a limitations period for legal actions challenging the constitutionality of the Act or a license issued under the Act to be filed within 90 days after the date the license is issued. In order for an application to be considered under AS 43.90.130(16), applicants are required to waive their right to appeal the rejection of their application as incomplete, issuance of a license to another applicant, or the determination that no application merits issuance of a license. Finally, to claim the inducements under AS 43.90.310(c), 43.90.320(c), and by voucher under 43.90.330(d), the person must agree not to protest or appeal a filing by the licensee to roll-in mainline expansion costs up to a level required in AS 43.90.130(7).

Based upon the doctrines of sovereign immunity and the Constitution of the State of Alaska, the legislature had authority to restrict the right of prospective licensees and other persons to seek judicial review of the state's decisions regarding the license award process and constitutional claims against the Act.

VI. Project amendments or modifications, license violations, and arbitration

AS 43.90.210 permits amendment of or modification to the project plan subject to the approval of the commissioners if the amendments or modifications improve the net present value of the project to the state, are necessary to comply with a regulatory order or requirements, or necessary because of changed circumstances outside the licensee's control and not reasonably foreseeable before the license was issued. An amendment or modification of the license must be consistent with the requirements of AS 43.90.130 and

¹¹ See e.g., *State v. Haley*, 687 P.2d 305 (Alaska 1984). This constitutional provision grants to the legislature the sole and exclusive power to enact laws establishing the terms and conditions upon which the state may be sued, consent to sue must be expressly granted by legislative authority. *Alaska v. The O/S Lynn Kendall*, 310 F. Supp. 433 (D. Alaska 1970). When authorized, the right to sue may also be made condition upon compliance with provisions governing administrative remedies. See *State v. Zia, Inc.*, 556 P.2d 1257 (Alaska 1976).

may not substantially diminish the value of the project to the state or the project's likelihood of success.

AS 43.90.230 describes the circumstances that would constitute violation of the license and allows the state to issue notice of violation, cease disbursing matching contributions and recover matching funds distributed to date. It provides for notice of the violation to the licensee and opportunity to cure. If the commissioners and the licensee are unable to resolve the violation, the commissioners shall, after providing the licensee with notice and opportunity to be heard, issue a written determination. The written determination is a final agency action for purposes of appeal to the superior court in the state.

AS 43.90.240 provides for abandonment of the project if the commissioners and licensee agree that the project is uneconomic. If the commissioners and licensee cannot agree, this section provides for arbitration under the laws of Alaska. The party claiming that the project is uneconomic bears the burden of proof by a preponderance of the evidence. If the arbitration panel determines, based on certain enumerated conditions that the project is uneconomic, the state's and licensee's obligations cease under the license and the Act. If the arbitration panel determines it is not uneconomic, the obligations continue.

VII. Alaska Gasline Inducement Act coordinator

AS 43.90.250 creates an Alaska Gasline Inducement Act coordinator position in the Office of the Governor. The position continues until one year after commencement of commercial operations of the project. The person is appointed by, and serves at the pleasure of, the governor. AS 43.90.260 requires all state agencies to conduct their reviews expeditiously and prevents the agencies from imposing any unessential requirements that will result in delay. The Alaska Gasline Inducement Act coordinator may act to preclude agency terms and conditions that are not required by law if they would significantly prevent or impair expeditious construction, operation, or expansion of the project. However, the coordinator does not have authority to amend or exempt the applicant from statutory, regulatory, or other legal requirements.

VIII. Inducements to encourage oil and gas lessees and other persons to commit to ship natural gas on a project licensed under the Act

AS 43.90.300 provides that any person that has committed to acquire firm transportation capacity during the first binding open season of the project is qualified to receive the royalty and tax inducements on gas shipped in the acquired capacity. It also provides for transfer of the resource inducements by a voucher issued under AS 43.90.330.¹²

AS 43.90.310 entitles qualified persons to royalty inducements that contractually amend the oil and gas leases from which gas is shipped on the natural gas pipeline to incorporate more favorable regulatory terms for calculating the value of the state's royalty and to limit the ability of the state to switch between taking its royalty in kind or in value. The state will adopt regulations defining the method of valuing its royalty share at a fair value that is based on reliable industry sources and minimizes retroactive adjustments. The regulations must set a methodology the state will use to exercise its right to alternate between taking its royalty in kind and in value in a way that will not cause the lessee to bear disproportionate transportation costs or interfere with the lessee's long term marketing plans. A person that commits gas in the first binding open season may elect to calculate the royalty on gas transported in the project under the person's existing lease and unit agreements or under the regulations.


AS 43.90.320 entitles persons who made firm transportation commitments during the first binding open season of the pipeline project to an exemption from the state's production tax on gas shipped in the project equal to difference in the production tax rate at the time the gas is committed for firm transportation in the first binding open season and at the time the tax is due on gas shipped in the pipeline. The tax exemption may be applied against gas production taxes within 10 years immediately following commencement of commercial operations. Earlier versions of the bill referred to this exemption as a "contract" and raised an issue under art. IX, sec. 1 of the Constitution of the State of Alaska of whether it constituted an unenforceable contracting away of the State's power of taxation. That reference is not in the final bill, however.

¹² AS 43.90.450 allows transfer of the license after approval by the commissioners, and after 30 days public notice and notice to the legislature, but only if the transfer does not increase or diminish the obligations under the license or diminish the likelihood of success of the project or the net present value of the license to the state. Royalty and tax inducements may be transferred only in connection with a sale or merger resulting in transfer of all the person's North Slope assets and firm transportation capacity contracts in the project.

IX. Conclusion

This bill is the legislature's substitute for your initial proposal. While there are changes from the document you introduced, the bill substantially implements the policies of your original proposal. We believe that the bill will withstand any significant statutory or constitutional challenge.

Sincerely,



Talis J. Colberg
Attorney General

TJC/BEH/aae



Office of the Attorney General
Oil, Gas & Mining Section
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501-1994
Phone: (907) 269-5255
Fax: (907) 279-8644

Fax Transmission

The information contained in this fax is confidential and/or privileged. This fax is intended to be reviewed initially by only the individual named below. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this fax or the information contained herein is prohibited. If you have received this fax in error, please immediately notify the sender by telephone and return this fax to the sender at the above address. Thank you.

To:

LT. GOVERNOR PARNELL

Fax #:

269.0263

465.5400 OUT
OF SVL

From:

AG TALIS COLBERG

Date:

8.9.2007

89.07
DUE

Subject:

Pages:

2

, including
cover sheet

Message:

PER MR. COLBERG'S REQUEST,
LETTER FROM SENATOR FRENCH IS
ATTACHED.

If you do not receive all the pages or have any problems with
this fax, please call for assistance at (907) 269-5255.

COPY

ALASKA STATE LEGISLATURE



SENATOR HOLLIS FRENCH

RECEIVED

AUG 06 2007

Department of Law

P.
Corvick

August 1, 2007

Sarah Palin, Governor
State of Alaska
PO Box 110001
Juneau, AK 99811

Dear Governor Palin,

Later this coming fall I am planning on holding a special meeting of the Senate Judiciary Committee to conduct an overview of the criminal justice system with an emphasis on urban crime. The tentative dates for this "Crime Summit" are November 5th and 6th, 2007.

I am writing to invite you and the relevant departments, Corrections, Public Safety, Health and Social Services, and Law, to participate. I'm sure you will agree that with the recent increase in violence, especially amongst our youth, that it is in every Alaskan's best interest to identify methods to combat this negative trend.

I am respectfully requesting that you direct the Attorney General and the commissioners of other departments to aid my office in preparation for the Crime Summit by making any necessary information and witnesses from their departments available at the hearings.

We will keep your office abreast as dates and details are finalized. Thank you for your consideration.

Best,

A handwritten signature in black ink, appearing to read "Hollis French".

Senator Hollis French

Cc. Attorney General Colberg, Department of Law
Commissioner Schmidt, Department of Corrections
Commissioner Monegan, Department of Public Safety
Commissioner Jackson, Department of Health and Social Services

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	3179
RECIPIENT ADDRESS	2690263
DESTINATION ID	
ST. TIME	08/09 10:25
TIME USE	00'30
PAGES SENT	2
RESULT	OK



Office of the Attorney General
Oil, Gas & Mining Section
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501-1994
Phone: (907) 269-5255
Fax: (907) 279-8644

Fax Transmission

The information contained in this fax is confidential and/or privileged. This fax is intended to be reviewed initially by only the individual named below. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this fax or the information contained herein is prohibited. If you have received this fax in error, please immediately notify the sender by telephone and return this fax to the sender at the above address. Thank you.

To: LT. GOVERNOR PARWELL Fax #: 269.0263
465.5400

From: AG TALIS COLBERG Date: 8.9.2007

Subject: _____ Pages: 2, including
cover sheet

Message:

PER MR. COLBERG'S REQUEST,
LETTER FROM SENATOR FRENCH IS
ATTACHED.

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO 3180
RECIPIENT ADDRESS 4655400
DESTINATION ID
ST. TIME 08/09 10:41
TIME USE 00'00
PAGES SENT 0
RESULT NG

#0018 BUSY/NO SIGNAL



Office of the Attorney General
Oil, Gas & Mining Section
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501-1994
Phone: (907) 269-5255
Fax: (907) 279-8644

JUNEAU FAX
OUT OF
SERVICE
CONFIRMED
RECEIPT
BY LT. GOV
IN ANCHORAGE
DRK
8.9.2007

Fax Transmission

The information contained in this fax is confidential and/or privileged. This fax is intended to be reviewed initially by only the individual named below. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this fax or the information contained herein is prohibited. If you have received this fax in error, please immediately notify the sender by telephone and return this fax to the sender at the above address. Thank you.

To: LT. GOVERNOR PARDELL Fax #: 269.0263
465.5400

From: AG TALIS COLBERG Date: 8.8.2007

Subject: _____ Pages: 2 including cover sheet

Message: PER MR. COLBERG'S REQUEST,
LETTER FROM SENATOR FRENCH IS
ATTACHED.

*** ERROR TX REPORT ***

TX FUNCTION WAS NOT COMPLETED

TX/RX NO	3178	
RECIPIENT ADDRESS	4655400	
DESTINATION ID		
ST. TIME	08/09 10:31	
TIME USE	00'00	
PAGES SENT	0	
RESULT	NG	#0018 BUSY/NO SIGNAL



Office of the Attorney General
Oil, Gas & Mining Section
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501-1994
Phone: (907) 269-5255
Fax: (907) 279-8644

Fax Transmission

The information contained in this fax is confidential and/or privileged. This fax is intended to be reviewed initially by only the individual named below. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this fax or the information contained herein is prohibited. If you have received this fax in error, please immediately notify the sender by telephone and return this fax to the sender at the above address. Thank you.

To: LT. GOVERNOR PARNELL Fax #: 269.0263
465.5400

From: AG TALIS COLBERG Date: 8.8.2007

Subject: _____ Pages: 2, including
cover sheet

Message: PER MR. COLBERG'S REQUEST,
LETTER FROM SENATOR FRENCH IS
ATTACHED.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

SARAH PALIN, GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907)269-5100
FAX: (907)279-8644

January 11, 2008

The Honorable Sarah Palin
Governor
State Capitol
Juneau, Alaska 99801

Re: 2007 Annual Report from the Department of Law

Dear Governor Palin:

Pursuant to AS 44.23.020(b)(7), the attorney general shall make available a report to the legislature, through the governor, at each regular legislative session. I am pleased to share with you the 2007 Annual Report of the Department of Law.

Sincerely,



Talis J. Colberg
Attorney General

Enclosure

cc: Members of the Twenty-Fifth Alaska State Legislature

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Sarah Palin, Governor

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-2133
FAX: (907) 465-2075

June 24, 2008

Linda Perez, Director
Division of Administrative Services
Office of the Governor
P.O. Box 110001-0001
Juneau, Alaska 99811-0001

Re: Request for Extension of Time to Respond to Henning
Public Records Request

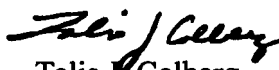
Dear Ms. Perez:

I have considered your request for an extension of time for an additional three weeks to complete the privilege review of the requested documents and the response from Mr. Henning. I find that in this instance extraordinary circumstances exist as to those documents for which review is required and that three weeks is the minimum period required to complete that task without unduly disrupting the functions of the relevant departments. Therefore I grant an extension of three weeks beyond the current due date of July 26, 2008 for all documents for which privilege review is required.

That leaves a question as to whether to provide documents as they are reviewed and determined eligible for release or to simply wait until all have been reviewed and release them at one time. It is frequently important that a document be provided in context -- that is in the same sequence in which it was stored -- in order for its meaning and importance to be clear. Because of that concern, the relatively short extension requested and the lack of any stated need for immediate disclosure, it is my view that the documents reviewed should be reintegrated into the response in their original place for a single release at the end of the extension period. This approach will provide the appropriate balance between the most useful response and the shortest time frame.

By copy of this letter I am providing Mr. Henning with notice of my decision. If there are any questions please feel free to contact me.

Sincerely,


Talis J. Colberg
Attorney General

cc: Zane Henning
David T. Jones, Senior Assistant Attorney General, Dept. of Law
Michael Mitchell, Senior Assistant Attorney General, Dept. of Law
Elise Hsieh, Assistant Attorney General, Dept. of Law

2 AAC 96.335. Denial of request. (a) A request for a public record that complies with this chapter may be denied only if

- (1) the record is not known to exist after the public agency makes a diligent search for it;
- (2) the record is not in the public agency's possession, and after a diligent search the public agency does not know where the record is to be found;
- (3) the record has been destroyed in accordance with an applicable record-retention schedule;
- (4) nondisclosure of the record is authorized by a federal law or regulation, or by state law; or
- (5) the record is believed to be in the agency's possession but has not yet been located, in which case the public agency shall proceed under (f) of this section.

(b) A request may be denied by the public agency head or by an agency employee to whom denial authority has been delegated by the public agency head.

(c) An initial denial of a written request must be in writing; must state the reasons for the denial, including any specific legal grounds for the denial; and must be dated and signed by the person issuing the denial. If a request is denied by a public agency employee to whom denial authority has been delegated, the notice of denial must reflect this delegation. A copy of 2 AAC 96.335 - 2 AAC 96.350 must be enclosed with the denial.

(d) A denial of a written request, in whole or in part, must state that

- (1) the requestor may administratively appeal the denial by complying with the procedures in 2 AAC 96.340;
- (2) the requestor may obtain immediate judicial review of the denial by seeking an injunction from the superior court under AS 40.25.125;
- (3) an election not to pursue injunctive remedies in superior court shall have no adverse effects on the rights of the requestor before the public agency; and
- (4) an administrative appeal from a denial of a request for public records requires no appeal bond.

(e) A denial of a written request is considered to be issued at the time the denial is either delivered to the United States Postal Service for mailing, or hand-delivered to the requestor by an employee or agent of the public agency.

(f) If a written request is denied because a record has not yet been located and the record is believed to exist in the agency's possession, the office in the public agency responsible for maintaining the record is believed to exist in the agency's possession, the office in the public agency responsible for maintaining the record shall continue to search until the record is located or until it appears that the record does not exist or is not in the public agency's possession. The public agency shall periodically inform the requestor of its progress in searching for the requested record.

(g) A record that is the subject of a public records request that has been denied shall not be destroyed or transferred from the public agency's custody, except that records may be transferred to state archives and records management services as provided by AS 40.21 and regulations adopted under AS 40.21. A public agency may not destroy or transfer custody of a record to which access has been denied or restricted until at least 60 working days after the requestor is notified in writing that the request has been denied, or if there is an administrative or judicial appeal or other legal action pending at the end of the 60-working-day period, until the requestor has exhausted those actions.

2 AAC 96.340. Appeal from denial; manner of making. (a) A requestor whose written request for a public record has been denied, in whole or in part, may ask for reconsideration of the denial by submitting a written appeal to the agency head.

(b) An appeal under (a) of this section must be mailed or hand-delivered to the agency head within 60 working days after the denial is issued and must include the date of the denial and the name and address of the person issuing the denial. The appeal must also identify the records to which access was denied and which are the subject of the appeal. If an appeal is from the failure of the agency to respond to the records request within the appropriate time limit under 2 AAC 96.325, the appeal must so state, must identify the records sought, and must identify the public agency to which the request was directed and the date of the request.

(c) The 60 working days within which an appeal must be filed begins to run upon the issuance of the denial or, if no denial is issued, upon the expiration of the time period within which the public agency should have responded.