

The Texas Public Information Act at a Glance

Under the Texas Public Information Act (the Act), the general rule is that any member of the public has a right to access any information that is collected, assembled, or maintained by or for a city. The Act applies to all city records, regardless of format. Public information includes information that is maintained on paper, tape, microfilm, video, and electronic data held in a computer memory, as well as any other medium.

The Act requires cities to display a sign that informs citizens of their rights. The format of the sign is prescribed by statute and is available on the attorney general's Web site at www.oag.state.tx.us.

The Act only applies to information already in existence. Thus, city officials are not required to conduct research or answer questions. Members of the public may request copies of information or inspect information at city hall, and information should be available at a minimum during normal business hours.

Some cities may choose to respond to oral requests. However, only a written request triggers the Act's requirements. A request is not required to be in any specific format or on a city-provided form, but it must be in writing. Cities should require that all requests be in writing and include the requestor's name, address, phone and fax number, e-mail address, and a detailed description of the information being sought. A city official should never inquire why a person is requesting information, but if a request for information is unclear, a city official may ask for clarification. All requests should be treated the same, without regard to who the requestor is or what information is being sought.

Information must be released "promptly," which is defined in the Act as being "as soon as possible under the circumstances, that is, within a reasonable time, without delay." Thus, a city should release clearly public information as quickly as possible. If a requestor asks for a large volume of information, a city may certify to the requestor in writing a reasonable date by which it will provide the information.

Certain specifically-listed information is made "automatically" public under the Act. For example, a completed report, audit, evaluation, or investigation made of, for, or by a governmental body must always be released, and the Act lists several other types of information that generally have to be released.

While certain information has to be disclosed, there are literally hundreds of exceptions (both permissive and mandatory) that may allow a city to withhold certain types of information. The exceptions range from information regarding ongoing law enforcement investigations to certain medical information. If a city official believes that requested information is confidential by law or may be withheld pursuant to an exception, the city has ten business days to seek an attorney general opinion to allow it to withhold the information, and an additional five business days to submit samples of the information with arguments as to why the information may be withheld. The only way that a city can withhold information under the Act is if the attorney general rules that it may do so, and missing the ten-day deadline may waive the city's right to withhold. Thus, it is essential that each city develop procedures for receiving and processing requests for information.

A city may charge fees for providing public information. In many cases, the fees can include the reasonable costs of copies, labor, and overhead. For detailed information on fees and charges under the Act, please visit the attorney general's Web site.

Violations of the Act may invoke criminal prosecution. For example, refusing to provide public information, releasing confidential information, or destroying government information may lead to fines of up to \$4,000 and up to six months in jail. A city official may also be ordered to release public information by a civil court.

This handout is oversimplified for brevity and should never be substituted for the advice of legal counsel. Please contact your city attorney or the Texas Municipal League Legal Services Department at 512-231-7400 or legal@tml.org with questions regarding the application of the Act. For the detailed Public Information Act Handbook, please visit the Texas attorney general's Web site at www.oag.state.tx.us or call 877-OPEN TEX.