

Basics of the Public Information Act

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What is public information?

- “Public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body, if the governmental body has a right of access to it.
- What about personal e-mails or texts?



What is a public information request?

- Must be in writing to trigger the PIA
- Must ask for information in existence as of the date the request was received
- No “magic words” required
- Can be typed or handwritten
- Cannot require the use of a specific form to submit request



What must you do when you receive a request?

- As a general rule, a governmental body must:
 - Promptly produce information for inspection, duplication, or both; or
 - Ask for a decision from the attorney general about whether the information is excepted from disclosure
- Exceptions: previous determinations & statutory authority



How much time do you have to request an AG opinion?

- If you wish to withhold information from the requestor, you must request a decision from the AG not later than the 10th business day after receiving the request.
 - Must also notify requestor that governmental body is seeking an opinion.

- Also a 15-day deadline
 - Must submit all documents no later than 15 business days after receiving the request.



What if the request is unclear?

- Cannot ask the requestor why he/she wants the information.

- Can ask requestor to clarify request and/or discuss how scope of request might be narrowed.

- Supreme Court case in 2010 – 10 day deadline starts anew upon receiving clarified request



Consequences for missing deadlines

- Mandatory exceptions are not waived
 - Exceptions to disclosure that protect individual privacy interests.
 - Information that is confidential by law

- Permissive exceptions are waived
 - Also called discretionary exceptions
 - Exceptions to disclosure that protect the governmental body's interests.



Key Exceptions to Disclosure

- 552.101 – Information confidential by law
- 552.103 – Information related to litigation
- 552.104 – Information related to bidding
- 552.107 – Attorney/Client privilege
- 552.108 – Law enforcement exception
- 552.117 – Personal information (if employee elects to keep confidential)



Civil and Criminal Penalties

- Mandamus and declaratory relief available.
- Governmental Body can bring civil suit against AG.
- Criminal penalties for releasing confidential information and for withholding public information.



Resources

- AG's Open Government Hotline
 - (877) OPEN-TEX
- Cost Questions
 - Hadassah Schloss, AG Cost Rules Administrator
 - (512) 475-2497
- TML
 - (512) 231-7400
 - legalinfo@tml.org

