

The Texas Public Information Act: An Overview

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This presentation satisfies the training requirement of
Texas Government Code Section 552.012



Presentation Outline

- Background of the legal requirements for open records and public information
- Applicability of the Public Information Act
- Procedures and Requirements regarding complying with a public information request
- Role of the Attorney General under the Public Information Act
- Penalties and other consequences



*Public Access
Guidelines*



Texas Government Code Chapter 552

Section 552.001 Policy; Construction

(a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, *it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees.* The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(b) This chapter shall be liberally construed in favor of granting a request for information.



Public Information Defined

Gov't Code § 552.002(a)

"Public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- 1) by a governmental body;
- 2) for a governmental body and the governmental body:
 - a) owns the information;
 - b) has a right of access to the information; or
 - c) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- 3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.



Public Information Defined

Gov't Code 552.002(a-1), (a-2)

- Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.
- The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.



Forms of Public Information



Gov. Code § 552.002(b) & (c)

Information recorded in any form, including

- Paper, film, or tape
- Magnetic, optical or solid state storage
- Audio or video recording
- Photographs
- Maps
- Drawings
- Emails, Internet postings, text messages, instant messages, or other electronic communications



Official Business Defined

Gov't Code § 552.003(2-a)

“Official Business” means any matter over which a governmental body has any authority, administrative duties, or advisory duties.



Governmental Body Defined

Gov't Code § 552.003(1)*

Encompasses all public entities supported in whole or in part by public funds.
Including:

- ❖ State agencies
 - ❖ County commissioners court
 - ❖ City councils
 - ❖ School district board of trustees
 - ❖ Governing bodies of Special district (i.e. municipal utility districts, public utility districts)
 - ❖ Local workforce development boards
- ❖ **Does not include the Judiciary**
❖ Gov't Code § 552.0035
- ❖ Other organizations that do not meet the definition are subject to the PIA because their enabling statute makes them subject to the PIA.

*SB 943(2019): Eff. Jan. 1, 2020



Public Information Act Request

Question 1

According to the Public Information Act (PIA),
what triggers the PIA?

- A. Verbal Request
- B. Written request
- C. Neither verbal or written request
- D. Both verbal and written request



Public Information Act Request

ANSWER 1

B. Written Request

- ✓ Only Written Request trigger the PIA.
- ✓ Any Written Request triggers the PIA.
- ✓ GB can allow a requestor to use an OAG Public Information Request Form.*
- ✓ OAG Public Information Request Form provides a requestor the option of excluding from a request information that the GB determines is:
 - ✓ Confidential; or
 - ✓ Subject to an exception to disclosure that the GB would assert if the information were subject to the request.
- ✓ If GB does allow the requestor to use the OAG Public Information Request form, then the GB is required to post the form on the GB's website.



*SB 944 (2019): Eff. Sept. 1, 2019

Public Information Act Request

Gov't Code § 552.234*

- ❖ PIA requires request be delivered to the proper officer for public information by:
 - ❖ United States mail;
 - ❖ E-mail;
 - ❖ Hand delivered; or
 - ❖ Any other appropriate method approved by the governmental body, including fax & electronic submission through the GB's website. (Must inform the public on the required PIA sign and GB's website.)
 - ❖ GB may designate one mailing address and one email address for receiving written request.
 - ❖ Must provide the designated mailing address and email address to the public upon request.
 - ❖ Must post the designated mailing address and email address on the GB's website and the required PIA sign explaining the GB's is only required to respond to written PIA request if received in the designated ways.

^{*}SB 944 (2019): Eff. Sept. 1, 2019



How Do Requestors Know

Gov't Code § 552.221

Requires a governmental body to post a sign containing:

- The rights of requestors
 - The responsibilities of governmental bodies
 - Procedures for inspecting and obtaining a copy of information



Public Information Act Request

- ❖ Must ask for information in existence as of the date the request was received.
- ❖ No “magic words” required.
- ❖ No requirement to label it as an open record request or public information request.
- ❖ Can be typed or handwritten.
- ❖ No signature required.
- ❖ Cannot require use of a specific form to submit request.
 - ❖ If GB allows the requestor to use the OAG PI Request Form, must post form on GB’s website.*

*SB 944 (2019): Eff. Sept. 1, 2019



Do I Have To?

Question 2

Can a requestor require a governmental body to create a record if none exists?

- A. Yes
- B. No



Do I Have To?

Answer 2

B. No

- ❖ Generally, a governmental body is not required to produce information which is not in existence at the time the request is received. Thus, a governmental body is not required to create new information in response to a request.
- ❖ However, if the request only requires programming or manipulating existing data, it is not considered a request for the creation of new information.



Do I Have To?

Question 3

Can a requestor require a governmental body to create new information, perform legal research or provide answers to questions?

- A. Yes
- B. No



Do I Have To?

Answer 3

B. No

- ❖ The PIA does not require a governmental body to:
 - ❖ Create new information.
 - ❖ Perform legal research.
 - ❖ Prepare answers to questions.
 - ❖ The PIA only requires a governmental body to provide existing information or documents responsive to the request for information.



Request Form

Can you spot the public information request?



Hypothetical A

November 5, 2016

Ms. Sally Strawhouse, City Attorney
City of Texassville

RE: Request for Records
Dear Ms. Strawhouse:

We represent Mismanagement Developers, Inc. We are requesting all documents relating to Mismanagement Developers, Inc. Please forward those documents to us as soon as possible. We will, of course, be happy to reimburse you for any expenses associated with this request.

Sincerely,
Harold Cheatem



Hypothetical B

I want all records involved in Report # 225436-a6
Bob Scraw
F.O. Sat 22 Nov 2008
F. Hader, TX 75082



Hypothetical C

... John Smith's personnel file pursuant to the U.S. Freedom of Information Act, the First Amendment of the U.S. Constitution and open records laws of the European Union.



Hypothetical D

December 21, 2015

To Whom It May Concern,

Please send me the home address and picture of your city manager, Angelina Jolie. I really want to ask that gorgeous creature out.

Sincerely,
Brad Pitt



Hypothetical E

... “any and all communications Jane Smith sends or receives over the next 30 days starting tomorrow.”



Hypothetical F

... “How do you determine whether to file an appeal? What are the legal requirements to appeal a court’s ruling? Also, do you think I should appeal my case?”



Unclear or Unduly Broad Request

Gov't Code § 552.222

- ❖ Cannot ask requestor why they want the information
- ❖ Can ask for :
 - ❖ Clarification
 - ❖ Narrowing the scope
- ❖ 10 business days to request an Attorney General letter ruling
is measured from the date the request is clarified or narrowed as long as the government body was acting in good faith in requesting a clarification or narrowing of a unclear or unduly broad request
 - ❖ *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010)



Written Request for Clarification

Gov't Code 552.222(d) – (g)

If the governmental body sends a written request for clarification, narrowing or additional information and does not receive a written response, the requestor's entire request is considered withdrawn.

- Must wait until the **61st day**.
- If have requestor's physical mailing address, **must** send the written request for clarification by certified mail.
- If received request by email, can send clarification to the same email address the request came from.
- Must tell requestor the consequences of not responding.



Ownership of Public Information

Question 4

Do GB officers or employees have personal or property rights to GB's public information?

- A. Yes
- B. No



Ownership of Public Information*

Answer 4

B. No

- ❖ Current or former officers or employees of a GB ("temporary custodian") do not have a personal or property right to public information the officer or employee created or received while acting in an official capacity.
- ❖ This includes public information that is on the officer's or employee's privately owned devices.

*SB 944 (2019): Effective Sept. 1, 2019



Temporary Custodian Defined*

Gov't Code §552.003(7)

“Temporary Custodian” means as officer or employee of a governmental body who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information of the governmental body or the officer's agent. The term includes a former officer or employee of a governmental body who created or received public information in the officer's or employee's official capacity that had not been provided to the officer for public information of the governmental body or the officer's agent.

*SB 944 (2019): Effective Sept. 1, 2019



Temporary Custodian Duties*

Gov't Code § 552.004(b)-(c)

- **Must either:**
 - Preserve public information on privately owned devices in its original form in a backup or archive and on the privately owned device as required by the record retention schedule; or
 - Forward or transfer the public information to the GB or a GB server.

*SB 944 (2019): Effective Sept. 1, 2019



Temporary Custodian Duties*

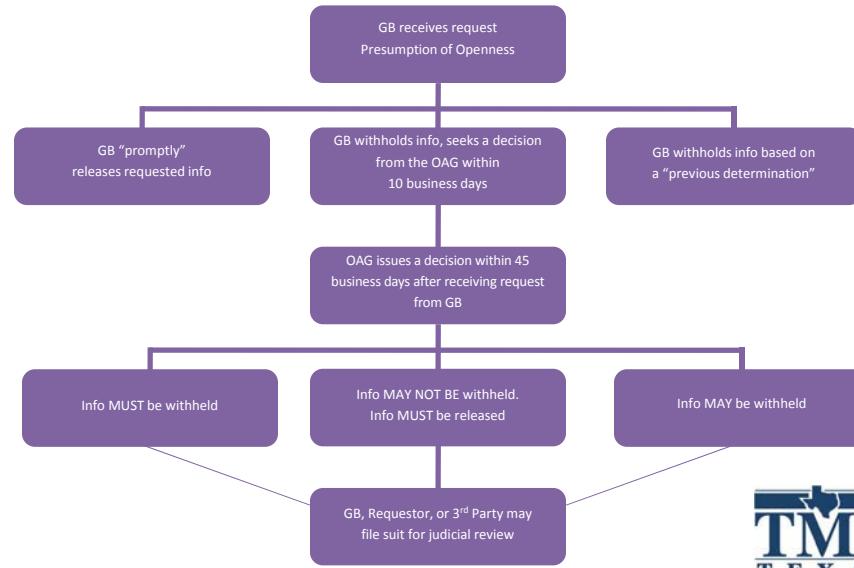
Gov't Code § 552.233

- Must surrender or return the public information in your possession, custody, or control to the GB not later than the 10th day after the officer for public information or the officer's agent request the public information to be surrendered or returned.
 - PIA request is considered received on the date the public information is surrendered or returned to the GB.
- Failure to surrender or return public information is grounds for disciplinary action by the GB or any other applicable penalties provided by the PIA or other laws.

*SB 944 (2019): Effective Sept. 1, 2019



Basic Process for Governmental Bodies



So You Have Received a Request...



How Much Time?

Question 5

If the governmental body is going to release the information requested, how much time does the governmental body have to comply with the request?

- A. 72 hours
- B. Promptly, depending on the circumstances, within a reasonable time
- C. Whenever the governmental body feels like it



How Much Time?

Answer 5

B. Promptly, depending on the circumstances, within a reasonable time

Gov't Code § 552.221

Release of information

- Shall promptly produce public information for inspection, duplication or both
- “Promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay



How Much Time?

Question 6

If the governmental body wants to withhold the information, how much time does the governmental body have to request an OAG decision?

- A. 10 calendar days
- B. 15 calendar days
- C. 10 business days
- D. 15 business days



How Much Time?

Answer 6

C. 10 business days

Gov't Code § 552.301(b)

The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.



How Do You Count Business Days?

General rules for determining 10 business days

- Start counting the next business day after receiving written request.
- “Received” = when the governmental body physically received the PIA request, not when it is opened or read.
- Saturdays, Sundays and holidays do not count.
- Optional holidays, skeleton crew days or days the governmental body is closed do not count, but make sure your briefing to the AG includes information concerning any office closures.

2017											
Notes:											
1	2	3	4	5	6	7	8	9	10	11	12
13	14	15	16	17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	1	2	3	4	5
6	7	8	9	10	11	12	13	14	15	16	17
18	19	20	21	22	23	24	25	26	27	28	29
30	31	1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20	21	22
23	24	25	26	27	28	29	30	31	1	2	3
4	5	6	7	8	9	10	11	12	13	14	15
16	17	18	19	20	21	22	23	24	25	26	27
28	29	30	31	1	2	3	4	5	6	7	8
9	10	11	12	13	14	15	16	17	18	19	20
31	1	2	3	4	5	6	7	8	9	10	11
12	13	14	15	16	17	18	19	20	21	22	23
24	25	26	27	28	29	30	31	1	2	3	4
7	8	9	10	11	12	13	14	15	16	17	18
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29	30	31	1	2	3	4	5	6	7	8	9
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21	22	23	24	25	26	27	28	29	30	31	1
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27	28	29	30	31	1	2	3	4	5	6	7
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13	14	15	16	17	18	19	20	21	22	23	24
26	27	28	29	30	31	1	2	3	4	5	6
10	11	12	13	14	15	16	17	18	19	20	21
21	22	23	24	25	26	27	28	29	30	31	1
8	9	10	11	12	13	14	15	16	17	18	19
20	21	22	23	24	25	26	27	28	29	30	31
14	15	16	17	18							

How Do You Count Business Days?

Counting to 10
Can Be Simple

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Written Request Received	3	4	5	6	7
8	9 5	10 6	11 7	12 8	13 9	14
15	16 10	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				



How Do You Count Business Days?

Counting to 10
Can Be Tricky

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18 Written Request Received	19	20	21
22	23	24 City Closed Christmas Eve	25 City Closed Christmas Day	26 City Closed Day After Christmas	27	28
29	30	31 City Closed Half Optional Day Off/Half Day Off	1 City Closed New Year's Day	2	3	4
5	6	8	9	10	11	



So it is the 10th business day and ...

**You are going to release the
information**



Different Responses a GB Can Send to a Requestor

Release the Information

Gov't Code § 552.221 (b) – (b-1)

- Providing copies of the requested information
- Inspection
- Referring to exact Internet local or URL address on a website maintained by the political subdivision and accessible to the public if the requested information is identifiable and readily available on that website.
 - However, if requestor prefers a manner other than access through the URL, you have to supply information in the manner requested.



“Core” Public Information

Gov’t Code § 552.022(a)

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are **public information and not excepted from required disclosure unless made confidential under this chapter or other law:**

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a GB, except as provided by Section 552.108;
- (2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a GB;
- (3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a GB;
- (4) the name of each official and the final record of voting on all proceedings in a governmental body;
- (5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a GB, on completion of the estimate;
- (16) information that is in a bill for attorney’s fees and that is not privileged under the attorney-client privilege;
- (17) information that is also contained in a public court record; and
- (18) a settlement agreement to which a GB is a party.



Different Responses a GB Can Send to a Requestor

Additional Time Needed to Produce Records

Gov’t Code § 552.221 (c), (d)

- If the information cannot be produced within 10 business days, notify the requestor in writing and set a date and hour within a reasonable time when the information will be available.
- Still need to meet all deadlines if seeking a ruling from the OAG.

Programming or Manipulation Costs

Gov’t Code § 552.231

- Not the same as “creating new information”.
- Must provide specific written statement within a certain time frame.
- If the requestor does not respond to written statement within 30 days, request is considered withdrawn.



Different Responses a GB Can Send to a Requestor

When Estimated Charges will exceed \$40

Gov't Code § 552.2615

- Must provide an itemized statement detailing the estimated charges
- Must inform the requestor that the request will be considered withdrawn if he does not respond to the statement in writing within 10 business days informing GB that:
 - The requestor will accept estimated charges;
 - The requestor is modifying the request; or
 - The requestor has filed a complaint with the OAG's Cost Rules Administrator
- If an alternative, less costly method of viewing info is available, must include statement that requestor may contact the governmental body about the alternative method
- Still need to meet all deadlines for seeking a ruling from the OAG
- If requestor does not respond within 10 business days, entire request is withdrawn and GB can withdraw ruling request



Different Responses a GB Can Send to a Requestor

When Estimated Charges will exceed \$100

Gov't Code § 552.263

- You may require a deposit or bond for payment of anticipated costs.
- Must still provide a written statement required under Gov't Code § 552.2615
- If requestor fails to submit deposit or bond within 10 business days or modify the request, the request is considered withdrawn by operation of law.
 - Not enough for requestor to accept charges in writing, must actually submit payment.
- If you require deposit, bond or whole payment, then the original request is considered received on the day the requestor pays.



How Much Can GB Charge?

Basic Cost Provisions

1 Texas Administrative Code

§§ 70.1 – 70.13

Standard Copies: \$0.10 per page

Labor Charge: \$15 per hour

Overhead Costs: 20% of labor charge

Postage/shipping: Any related postal or shipping expenses which are necessary

(1) Standard paper copy	\$0.10 per page
(2) Nonstandard paper copy	\$0.10 per page
(A) Diskette	\$0.10 each
(B) Magnetic tape	\$0.10 each
(C) Microfilm	\$0.10 each
(D) Tape cartridge	\$0.10 each
(E) Revolvable CD (CD-RW)	\$0.10 each
(F) Rewritable DVD (DVD-RW)	\$0.10 each
(G) Digital video disc (DVD)	\$0.10 each
(H) DAT drive	\$0.10 each
(I) Video tape media	\$0.10 each
(J) VHS video cassette	\$0.10 each
(K) Audio cassette	\$0.10 each
(L) Microfilm copy (e.g. 1 in. by 1 in. general, Microfiche, not including microfilm showing special paper)	\$0.10 per page
(M) Specialty paper (e.g. Micro, Microfilm, Microfiche, photographs)	\$0.10 each
(N) Microfiche	\$0.10 per page
(O) Microfilm	\$0.10 per page
(P) Microcopy	\$0.10 per page
(Q) Microfilm copying and reproduction	\$0.10 per page
(R) Microcopy copying and reproduction	\$0.10 per page
(S) Microfilm charges (20% of labor charge)	\$0.10
(T) Microfiche charges (20% of labor charge)	\$0.10
(U) Paper copy	\$0.10 per page
(V) Print or film	\$0.10 each
(W) Standard paper copy extra charge	\$0.10 each
(X) Computer Resource Charge:	
(A) Maintenance	\$0.10 per CPU
(B) Memory	\$0.10 per CPU
(C) Client Server or client	\$0.10 per disk
(D) PC or LAN	\$0.10 per disk
(E) Miscellaneous Supplies	\$0.10 each
(F) Postage and Shipping Charge	\$0.10 each
(G) Requests for information in accordance with TAC § 70.10(e)	\$0.10 each
(H) Maps in accordance with TAC § 70.10(e)	\$0.10 each
(I) Other costs	\$0.10 each
(J) Purchase of Contracted Services (may not include the equipment cost)	\$0.10 each



OAG Public Information Cost Estimate Model

OAG has created a cost letter generator to assist governmental bodies in creating cost estimates.

The tool is available at:

<https://texasattorneygeneral.gov/og/public-information-cost-estimate-model>

Public Information Cost Estimate Model
This model will calculate costs associated with a request for COPIES of information, but not a request to INSPECT information. For questions about estimating costs when a request asks to INSPECT information, please call our toll-free Cost Hotline at 1-866-OIG-COSTS (1-866-872-8787).

Government Body's Information	Requester's Information
Agency Name: _____	First/Last Name: _____
Contact Name: _____	Middle Initial: _____
Address: _____	Address: _____
City: _____	City: _____
State/Zip: _____	State/Zip: _____

Date request was made: 02/02/2015

Itemization of costs:

Did the requestor ask for standard paper copies? Yes No
Did the requestor ask for copies of nonstandard documents (e.g., oversized paper, DVD, or VHS tape)? Yes No
Add labor costs? Yes No
Are overhead charges applicable? Yes No
Are computer resource charges applicable? Yes No
Are miscellaneous charges applicable? Yes No
Will there be charges for miscellaneous supplies? Yes No
Will there be postage? Yes No
If the total charges exceed \$100, will you require a prepayment deposit? Yes No
OR
If the total charges exceed \$100, will you require a prepayment bond? Yes No



So it is the 10th business day and...

**You want to withhold the
information**



Withholding Information

Question 7

Do I have to request an OAG open records letter ruling every time I want to withhold information?

- A. Yes, every time
- B. Yes, unless you have a previous determination
- C. Yes, unless it is information that you can withhold without asking for a ruling
- D. Both B &C
- E. No



Withholding Information

Answer 7

D. Both B and C

Previous determinations and information that you can withhold without asking for a ruling

A governmental body is required to ask the OAG for an Open Record Letter Ruling (ORL) in *almost all cases* if the governmental body wants to withhold requested documents or information.



What is a “Previous Determination”?

Type 1

- Most common
- Applicable to only a particular governmental body
- Applicable only to specific information or records
- Applies when the information previously ruled upon is requested again

Type 2

- May be applicable to:
 - All governmental bodies
 - All governmental bodies of a certain type
 - Only a particular governmental body
- Applicable to a precise, clearly delineated category of information or records
- Language of ruling or decision will state it is a previous determination



Previous Determination: ORD 684

Open Records Decision No. 684

Identifies certain types of information a governmental body may withhold without requesting an ORL.

- ✓ Direct deposit authorization forms
- ✓ Form I-9 and attachments
- ✓ W-2 and W-4 forms
- ✓ Certified Agendas and recordings of closed meetings
- ✓ L-2 and I-3 declarations
- ✓ Certain email addresses
- ✓ Military discharge records

Redacted Data

22222	Void	a Employee's social security number 444-44-4444	For Official Use OMB No. 114
b Employer identification number [REDACTED]			
c Employer's name, address, and ZIP code SOME COMPANY NAME 1111 SOME ADDRESS DRIVE SOMECITY, OK 00000			
d Control number [REDACTED]			
e Employee's first name and initial Last name [REDACTED] [REDACTED]			
P. O. BOX 11211 OKLAHOMA CITY, OK 73127			
f Employee's address and ZIP code 15 State 16 Employee's place of birth OK 12-1234567 18 State wages, tips, etc. 19 State income 21689.20 936.			
Form W-2 Wage & Tax Statement GSA F-4 Social Security Administration -- Send this entire page with Form W-3 200 0 0 0 /			



When Can You Redact Without First Seeking a Ruling?

Information subject to the following exceptions may be redacted without requesting a ruling

- Gov't Code § 552.130
 - Information related to driver's license, motor vehicle title or registration, or personal identification document
- Gov't Code § 552.136
 - Credit card, debit card and access device numbers
- Gov't Code §§ 552.024 w/ 552.117, 552.1175 and 552.138
 - Personal information of certain public employees

22222	a Employee's social security number 503-11-1234	b Employer identification number (EIN) 51-1234567	c Employer's name, address, and ZIP code ACME SYSTEMS, INC. 1000 NW LINCOLN AVENUE PORTLAND, OR, 97330
d Control number	e Employee's first name and initial Last name JOHN A DOE	f Employee's social security number [REDACTED]	g Employer identification number (EIN) [REDACTED]
h Employer's name, address, and ZIP code ACME SYSTEMS, INC. 1000 NW LINCOLN AVENUE PORTLAND, OR, 97330			
i Control number [REDACTED]			
j Employee's first name and initial Last name JOHN A DOE			



OAG Open Records Division Forms

<https://texasattorneygeneral.gov/og/redacting-public-information-rules-and-forms>

OPEN GOVERNMENT / OPEN RECORDS DIVISION / REDACTING PUBLIC INFORMATION RULES AND FORMS



OPEN RECORDS DIVISION

ORDS: OVERRULED, MODIFIED, AFFIRMED,
WITHDRAWN

OPEN RECORDS QUESTIONS (ORQS)

OPEN RECORDS MEMORANDUM RULINGS

LIST OF PREVIOUS DETERMINATIONS BY
GOVERNMENTAL BODY

PUBLIC INFORMATION COST ESTIMATE
MODEL

**REDACTING PUBLIC INFORMATION RULES
AND FORMS**

AMENDMENTS TO THE PUBLIC
INFORMATION ACT: 2013 TEXAS
LEGISLATIVE SESSION

OPEN GOVERNMENT RESOURCES

OPEN GOVERNMENT CONFERENCES

EFILEING

FAQ OPEN GOVERNMENT TRAINING

QUESTIONS REGARDING OPEN RECORDS

LETTER RULINGS

STATUTES

OPEN GOVERNMENT – OTHER PIA RULES

Redacting Public Information Rules and Forms

A governmental body that wishes to redact information from data or documents it is releasing to the public must generally seek the decision of the attorney general.

A governmental body need not request an attorney general decision if it is relying on a previous determination to redact information. For more information about previous determinations, please see [Open Records Decision No. 673](#) (2001) and pages 35-36 of the 2014 Public Information Handbook.

A governmental body need not request an attorney general decision if it is redacting information pursuant to one of the five sections of the Public Information Act that give a governmental body explicit permission to redact information without requesting an attorney general decision. Those five sections are 552.024, 552.130, 552.136, 552.138 and 552.1175. The Rules and Forms applicable to redaction under those sections of the Public Information Act are provided below.

Rules

- Texas Administrative Code, Title 1, Chapter 63, Public Information Subchapter B, Review of Public Information Redactions

Forms

The following documents are provided in MS Word:

- Form Letter for Section 552.024 (public employee's personal information held by governmental body in its capacity as employer)
- (Effective 05/18/2013) Form Letter for Section 552.130 (motor vehicle records)
- Form Letter for Section 552.136 (account and access device numbers)
- (Effective 05/18/2013) Form Letter for Section 552.138 (family violence shelter center, victims of trafficking shelter center, or sexual assault program)
- (Effective 09/01/2014) Form Letter for Section 552.1175 (public employee's personal information held by governmental body in non-employment capacity)



Procedure for Requesting an Open Records Letter Ruling

Gov't Code §§ 552.301, 552.305

Not later than the 10th business day, you must:

- Ask the OAG for a ruling and state the exceptions that apply;
- Notify the requestor in writing that you have asked for a ruling;
- Provide the requestor a copy of your letter to the OAG requesting a ruling; and
- Notify any third parties with proprietary interests in the requested information that they may submit written comments to the OAG stating why the information should be withheld (third party notice must be in the form prescribed by the OAG).*

*SB 943 (2019): Eff. Jan. 1, 2020.



Procedure for Requesting an Open Records Letter Ruling

Gov't Code § 552.301(e)-(e-1)

Not later than the 15th business day, you must:

1. Submit written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld
2. Submit a copy of the written request for information
3. Submit a signed statement as to the date on which the request for information was received by the GB or evidence sufficient to establish that date.
4. Submit a copy (not your original) of specific information requested, or submit representative samples of the information if a voluminous amount of information was requested.
5. Label that copy of the specific information, or representative samples, to indicate which exceptions apply to which parts of the copy.
6. Send a copy of your written comments to the requestor.



OAG PIA Electronic Filing System

<https://apps2.portal.texas.gov/OAGPIAeFiling/>



Texas Attorney General
**Public Information Act
Electronic Filing
System**



Welcome

Welcome to the Office of the Attorney General's Public Information Act Electronic Filing System. The OAG uses this system to accept a governmental body's request for an attorney general open records decision under the Public Information Act, Texas Government Code Chapter 552. Interested parties can also use this system to submit comments or materials for review by the OAG during the open records decision process.

Please Note: This system cannot be used to request public information from the OAG or any other governmental body. Requests for public information must be submitted directly to the governmental body from whom you are seeking information.

You can use this service to:

- Request an attorney general open records decision and submit new material for review; or
- Submit supplemental documents or comments related to an existing request for decision.

Information You Need:

- Name of Governmental Body or Interested Party
- Governmental Body PIC ID (This is the internal tracking number assigned to a public information request by a governmental body. This is not the ID number assigned by Texas.gov. Third parties should contact the Governmental Body for this number or use the name of the Governmental Body for this data field.)
- Texas.gov Request ID (if you are submitting additional material to an existing request)
- Credit card (Visa, MasterCard, Discover, or American Express) or Electronic Check Information
- Microsoft® Silverlight® Plugin (This software is not required; however, it makes it easier to upload multiple files.) If you don't have Silverlight, you can install it now.



Consequences for Missing Deadlines

- Mandatory Exceptions are not waived.
- Permissive Exceptions are waived.
- Some examples of ways to waive permissive exceptions.
 - Fail to request a ruling by 10 business day deadline;
 - Fail to raise all applicable exceptions by 10 business day deadline;
 - Fail to submit information or representative sample within 15 business day deadline;
 - Fail to submit arguments within 15 business day deadline; or
 - Fail to submit copy of request within 15 business day deadline.
- Refer to the Public Information Act Handbook for a discussion of mandatory and permissive exceptions



Exceptions to Disclosure

Common Exceptions

- **552.101** Information Confidential by Law
- **552.102** Confidentiality of Certain Personnel Information
- **552.103** Information Related to Litigation
- **552.104*** Information Related to Competition or Bidding
- **552.107** Certain Legal Matters (Attorney-Client Privilege)
- **552.108** Certain Law Enforcement Records
- **552.110**** Confidentiality of Trade Secrets, Commercial or Financial Information
- **552.111** Agency Memoranda (Attorney Work Product)
- **552.116** Audit Working Papers
- **552.117***** Confidentiality of Certain Employee Information
- **552.130** Confidentiality of Certain Motor Vehicle Records
- **552.131** Information Relating to Economic Development Negotiations
- **552.136** Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers
- **552.137** Confidentiality of Certain E-Mail Addresses
- **552.147** Social Security Numbers

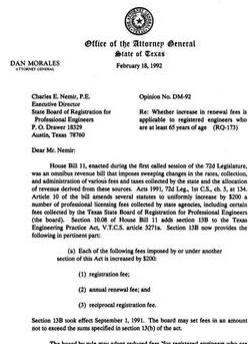
*HB 81(2019); Eff. Immediately; SB 943(2019); Eff. Jan. 1, 2019
***HB 2446, SB 662, SB 1494(2019); Eff. Immediately;
HB 1351, HB 2910(2019); Eff. Sept. 1, 2019

**SB 943(2019); Eff. Jan. 1, 2019



After Requesting a Ruling from the OAG

- The OAG will issue an informal letter ruling in response to the governmental body's request for a ruling.
- Rulings are issued within 45 business days unless the OAG extends the deadline, in which case the ruling will be issued within 55 business days.
- The OAG will issue the ruling to the governmental body, will return the records at issue to the governmental body, and will provide a copy of the ruling to the requestor.
- All rulings are available for review on the OAG's Open Government webpage:
<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/previous-attorney-general-decisions-and-rulings>.



Challenging a Ruling

- Request for reconsideration is prohibited.
- If a governmental body disagrees with the legal interpretation set forth in a ruling, it may file suit in accordance with the PIA.
 - Must file suit no later than the 30th calendar day after the receipt of OAG decision

Gov't Code § 552.324



Are there



??????



Civil Penalties

Formal Complaints

Gov't Code § 552.3215

Declaratory Judgment or Injunctive Relief

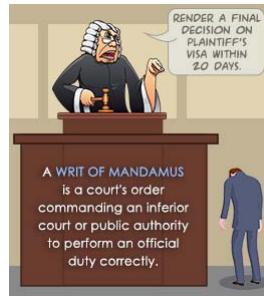
- Complainant files written complaint with district attorney or county attorney in county where governmental body is located:
 - *Local governmental bodies:* district attorney or county attorney for the county may bring action only in district court for that county where the governmental body is located
 - *State agencies:* Travis County District Attorney or OAG may bring action only in district court in Travis County
- Before the 31st day after the date the complaint was filed, DA or CA shall determine:
 - Whether the violation was committed
 - Whether an action will be brought
 - Notify complainant in writing of the determination
- If DA or CA determines not to bring action or it has been 90 days since the complaint was filed, the complainant can file complaint with the OAG.



Civil Penalties

Writ of Mandamus

Gov't Code § 552.321*



- Used to compel a GB or an entity to make information available for public inspection
- Filed by requestor or OAG
- Examples of potential mandamus situations
 - GB refuses to provide copies or access to public information
 - GB refuse to request OAG ruling
 - GB refuses to release information as required by an unchallenged OAG ruling

*SB 943(2019); Eff. Jan. 1, 2020



Criminal Penalties

Destruction, Removal, or Alteration of Public Information

Gov't Code § 552.351

- A person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by this chapter, or alters public information.
- Fine not less than \$25 or more than \$400 and /or county jail not less than three days or more than three months
- Misdemeanor offense



Criminal Penalties

Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information Gov't Code § 552.353

- Fails or refuses to give access, permit copying, or provide copies of public information with criminal negligence
- Fines not more than \$1,000 and/or county jail for not more than six months
- Misdemeanor Offense
- Constitutes official misconduct
- Affirmative defense against prosecution
 - Reasonable belief that public access to information not required and relied on
 - court order
 - court opinion, or
 - OAG decision
 - OAG decision sought and no decision issued
 - Suit filed in Travis County challenging OAG decision and suit pending
 - Officer's agent reasonably relied upon written instruction from the officer of public information



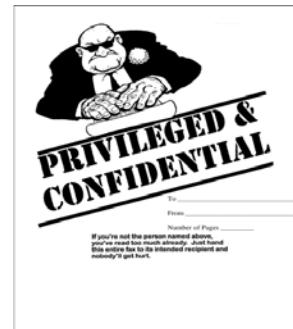
Criminal Penalties

Distribution or Misuse of Confidential Information

Gov't Code § 552.352(a)

- Officer or employee knowingly:
 - Uses confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information
 - Permits inspection of the confidential information by a person who is not authorized to inspect the information
 - Discloses the confidential information to a person who is not authorized to receive the information
 - Fine not more than \$1,000 and/or county jail for not more than six months
 - Constitutes official misconduct

CONFIDENTIAL INFORMATION



Open Government Training

Gov't Code § 552.012

- **One-hour minimum requirement:** must have a minimum of one hour of PIA training, but no more than two hours
- **Compliance deadlines:** Officials who are elected or appointed have 90 days within which to complete the required training.
- **Who must obtain the training?** The statute requires the top elected and appointed officials from governmental bodies subject to the PIA to complete a PIA training course.
- Additionally, designated public information coordinators are required to complete a PIA training course.



Resources

TML

www.tml.org

(512) 231-7400

OAG's Open Government Hotline

(877) OPEN TEX

(512) 478-6736

OAG Open Government Training

[https://texasattorneygeneral.gov
/log/open-government-training](https://texasattorneygeneral.gov/log/open-government-training)

Cost Questions

OAG Cost Rules Administrator

(888) OR-COSTS

(512) 475-2497

OAG website

<http://www.texasattorneygeneral.gov>

Texas State Library & Archives

Record Management

<https://www.tsl.texas.gov/slrm>



