

Texas Public Information Act 101

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



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Outline

- Background
- Training Requirements
- Applicability
- Public Information Requests
 - Procedures and Requirements
 - Responding to a Request
- Role of the Attorney General Under the PIA
- Penalties and Other Consequences
- Questions



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Background



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Background of the Public Information Act

- Originally adopted as the Open Records Act in 1973
- Found in [Chapter 552 of the Government Code](#)
- Policy that:
 - *“each person is entitled, unless otherwise provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees.”*
- Establishes requirements for governmental bodies (GBs) to respond to written requests for access and/or reproduction of public information



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Policy – Gov’t Code Sec. 552.001

- (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.**



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Training Requirements



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Public Information Act 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
- Public officials may designate a public information coordinator (PIC)
- PICs are required to complete a PIA training course



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Applicability



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Public Information

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

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



Gov't Code § 552.002(a)

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Official Business

- **Official Business** = any matter over which a GB has any authority, administrative duties, or advisory duties
- Public information includes any electronic communication created, transmitted, received or maintained on any device if the communication is in connection with the transaction of official business



Gov't Code §§ 552.003(2-a), 552.002(a-2)

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Forms of Public Information

- **Information recorded on physical media:**
 - Paper, film, tape
 - Magnetic, optical, or solid state storage
- **Information in any form:**
 - Audio or video recording
 - Photographs
 - Maps
 - Drawings
 - Emails, internet postings, text messages, instant messages, or other electronic communications



Gov't Code § 552.002

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Governmental Body

- GB = all public entities supported in whole or in part by public funds, including:
 - Cities and counties
 - State agencies
 - Public school districts and school boards
 - Police departments and sheriff's offices
 - Public universities
- Entities made subject to the PIA by their enabling statute, such as Economic Development Corporations
- PIA **does not** apply to the judiciary, including municipal courts



Gov't Code § 552.003

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Temporary Custodians

- A **Temporary Custodian** is any current or former 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 public information officer or the officer's agent
- A temporary custodian 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 city or a city server



Gov't Code §§ 552.003(7), 552.004(b)

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Duties of Temporary Custodians

- A temporary custodian must surrender or return the public information in his/her possession, custody, or control to the governmental body not later than the 10th day after the officer for public information or the officer's agent request the public information to be surrender or returned.
 - The request is considered received on the date the public information is surrendered or returned to the governmental body.
- Failure to surrender or return public information is grounds for disciplinary action by the governmental body or any other applicable penalties provided by the PIA or other laws.



Gov't Code § 552.233(b)-(d)

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Duties of Officer for Public Information

- The officer is required to make reasonable effort to obtain public information from a temporary custodian if:
 - The information has been requested from the city;
 - The officer is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the requested information;
 - The officer is unable to comply with their duties without obtaining the information from the temporary custodian; and
 - The temporary custodian has not provided the information to the officer.



Gov't Code § 552.203(4)

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Public Information Requests – Procedures and Requirements



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Requests that Trigger PIA

- Only a **written request** triggers the PIA
 - No “magic words”
 - No requirement to label the request as an open record request or public information request
 - Written = request can be typed or handwritten
 - No signature required
- Request must ask for information in existence as of the date the request is received
 - No requirement to create new information
 - No requirement to perform legal research
 - No requirement to prepare answers to questions



Gov't Code § 552.234

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Requests that Trigger PIA

- Written request must be delivered to Officer for Public Information (or designee) by:
 - United States mail;
 - E-mail;
 - Hand delivery; or
 - Any other appropriate method approved by the city, including fax and electronic submission through the city's website (portal)
- City may designate one mailing address and one email address for receiving written requests
 - If the city posts these on its website or its PIA sign, it is not required to respond to a written request unless the request is received at one of those addresses, by hand delivery, or by a method approved by the city.



Gov't Code § 552.234

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Designated Addresses

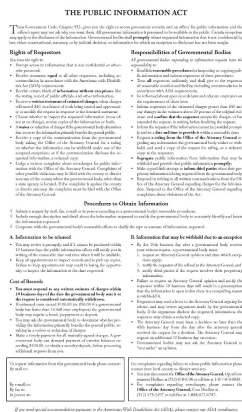
- If a governmental body designates a specific email address and mailing address to receive public information requests, it must provide this information to the Office of the Attorney General (OAG):
 - Must be submitted annually
 - Deadline = October 1 of each year
 - Submission through [OAG database](#)
- OAG will maintain publicly accessible database on its website



Gov't Code § 552.234

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Public Information Act Signage



- To inform the public, cities must post the [OAG sign](#) containing:
 - The rights of requestors
 - The responsibilities of the city
 - Procedures for inspecting and obtaining a copy of information
- Sign must include designated mailing address and email address, if applicable



Gov't Code §§ 552.221, 552.234

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Pop Quiz



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Hypothetical A

Dolly Carton called the City of Townsville's public information officer and demanded a copy of John Smith's personnel file.

Is this a proper public information request under the PIA?



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Hypothetical A

Dolly Carton called the City of Townsville's public information officer and demanded a copy of John Smith's personnel file.

Is this a proper public information request under the PIA?

No. Under the PIA, the request must be in writing.



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Hypothetical B

Date: January 2, 2025

To: Public Information Officer (publicinfo@cityoftownsville.org)

From: Anonymous1234@gmail.com

Subj: Request

Please provide me a copy of all the meeting minutes from 2024.

Is this email a proper public information request under the PIA?



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Hypothetical B

Date: January 2, 2025

To: Public Information Officer (publicinfo@cityoftownsville.org)

From: Anonymous1234@gmail.com

Subj: Request

Please provide me a copy of all the meeting minutes from 2024.

Is this email a proper public information request under the PIA?

Yes. *The request was sent to the public information officer, in writing, and requests information already in existence at the time of the request.*



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Hypothetical C

Dolly Carton sent a letter to the public information officer at the designated mailing address requesting:

“..any and all communications city employee Tyler Swift sends or receives over the next 30 days starting tomorrow.”

Is this a proper public information request under the PIA?



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Hypothetical C

Dolly Carton sent a letter to the public information officer at the designated mailing address requesting:

“..any and all communications city employee Tyler Swift sends or receives over the next 30 days starting tomorrow.”

Is this a proper public information request under the PIA?

No. Under the PIA, the request must be for information already in existence at the time of the request.



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What if the request is unclear or unduly broad?

- **Cannot** ask requestors why they want the information
- Can ask the requestor to:
 - Clarify the request if it is unclear; or
 - Narrow the scope if it is unduly broad
- The 10 business days to request an attorney general ruling is measured from the date the request is clarified or narrowed as long as the GB was acting in good faith in requesting a clarification or narrowing of an unclear or unduly broad request. See *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010).



Gov't Code § 552.222

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Responding to a Public Information Request



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Receipt of a Proper Request

Once the city has received a proper request, it has two options:

1. Promptly produce information for inspection, duplication, or both; **OR**
2. Request a decision from the OAG about whether the information being requested is excepted from disclosure, unless there is a previous determination ruling that the information is excepted



Gov't Code §§ 552.221, 552.301

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1. Promptly Produce Information



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How Much Time Do You Have?

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

- A. 10 business days
- B. Promptly
- C. 72 hours



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How Much Time Do You Have?

- The city must **promptly** produce public information for inspection, duplication, or both
 - **Promptly** = as soon as possible under the circumstances, that is, within a reasonable time, without delay
- A city can refer a requestor to the exact internet address on a website maintained by the city that is accessible to the public if the requested information is identifiable and readily available on that website



Gov't Code § 552.221

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If Information Cannot Be Released Promptly

- If the information cannot be produced within 10 business days, the city must notify the requestor in writing and set a date and hour within reasonable time when the information will be available
 - Note that the city still must meet all deadlines if seeking a ruling from the OAG



Gov't Code § 552.221

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2. Request a Decision from OAG



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Common Exceptions to Disclosure

- **Sec. 552.101** Information Confidential by Law
- **Sec. 552.102** Confidentiality of Certain Personnel Information
- **Sec. 552.103** Information Related to Litigation
 - Note this does not apply to certain information related to elections
- **Sec. 552.104** Information Related to Competition or Bidding
- **Sec. 552.107** Certain Legal Matters (Attorney-Client Privilege)
- **Sec. 552.108** Certain Law Enforcement Records
- **Sec. 552.110** Confidentiality of Trade Secrets, Commercial or Financial Information
- **Sec. 552.111** Agency Memoranda (Attorney Work Product)
- **Sec. 552.116** Audit Working Papers
- **Sec. 552.117** Confidentiality of Certain Employee Information
- **Sec. 552.131** Information Relating to Economic Development Negotiations
- **Sec. 552.137** Confidentiality of Certain E-Mail Addresses
- **Sec. 552.1391** Confidentiality of Cybersecurity Measures (new)



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Exceptions – Redactions Without a Ruling

- General rule is that to withhold information from the public, a city must request a ruling from the OAG
- Exceptions – information subject to the following exceptions may be redacted without requesting a ruling from the OAG:
 - **Sec. 552.024** – public employee’s personal information held by the city in its capacity as an employee *
 - **Sec. 552.130** – motor vehicle record information (drivers’ license number, vehicle title, or registration but does not include license plates recorded visually or audibly in a video recording) *
 - **Sec. 552.136** – access device numbers (credit card numbers) *
 - **Sec. 552.138** – family violence shelter center, victims of trafficking shelter center, or sexual assault program information *
 - **Sec. 552.1175** – public employee's personal information held by the city in non-employment capacity *
 - **Sec. 552.147** – social security numbers
- Must provide requestor with required [OAG form](#) for the exceptions noted with *



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Requesting a Decision from the OAG

- To withhold information subject to an exception, the city must request a decision from the OAG not later than the 10th business day after the date the request was received, unless it has a “previous determination”
- Received = when the city physically received the request, not when it is opened or read (this includes email)



Gov’t Code § 552.301(a)-(b)

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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



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Type 2 Previous Determination Example

Open Records Decision No. 684

Identifies certain types of information a governmental body may withhold without requesting a request for a ruling.

- 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 L-3 declarations
- Certain email addresses
- Military discharge records



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Notice Requirements

New legislation: H.B. 4219 (2025)

- If withholding requested information based on a previous determination, city must not later than the 10th business day after the date the request is received:
 - notify the requestor in writing that the information is being withheld **and**
 - identify in the notice the specific previous determination the city is relying on to withhold the requested information
- If city has no information responsive to a request, city must notify the requestor of that fact in writing not later than the 10th business day after the date the request is received



Gov't Code § 552.221(f)-(g)

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Procedures for Requesting an OAG Decision

Not later than the **10th** business day after receiving a request, the city must:

- Ask the AG for a ruling and state the specific exceptions that apply
 - Example: The city received a request from Paul for all information related to Prue's accident and arrest on June 14, 2025. Information is excepted from disclosure under Sections 552.101, 552.108, and 552.130.
- Notify requestor in writing that city has asked for a ruling
- Provide requestor a copy of city's letter to 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)



Gov't Code §§ 552.301, 552.305

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Procedures for Requesting an OAG Decision

Not later than the 15th business day after receiving a request, the city must:

- Submit written comments to OAG stating why the claimed exceptions apply
- Submit a copy of full written request (and any attachments) to OAG
- Submit a signed statement to OAG of the date the request was received or sufficient evidence to establish the date the request was received
- Submit a copy of the specific information, or a representative sample if voluminous amount of information was requested, to OAG
- Label the copy to indicate which exceptions apply to which parts of the copy
- Send copy of written comments to requestor

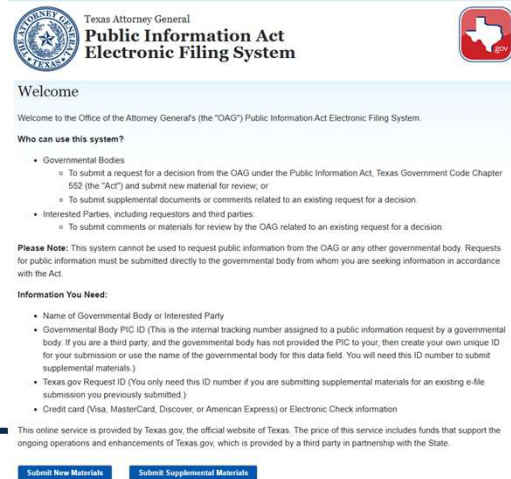


Gov't Code § 552.301(e)-(e-1)

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Electronic Submission of Requests

- Decision requests must be submitted through the [OAG's electronic filing system](#), unless an exception applies
- Exceptions include:
 - Fewer than 16 full-time employees
 - Located in a county with a population less than 150,000
 - The amount or format of the responsive information makes use of the electronic filing system impractical or impossible
 - Ex. OAG system is down, file is too large, etc.
 - The request is hand delivered to the OAG



Gov't Code § 552.3031

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Business Day Defined

A business day means any day other than:

- Saturday or Sunday
- A national or state holiday
- An optional holiday (days on which Rosh Hashanah, Yom Kippur, or Good Friday falls) if the city's officer for public information observes the holiday
- The Friday before or Monday after a national or state holiday if the holiday occurs on a Saturday or Sunday and the city observes the holiday on that Friday or Monday
- A designated day on which the city's administrative offices are closed or operating with minimum staffing (max. 10 days per calendar year)



Gov't Code § 552.0031

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Counting Business Days

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Written Request Received	3 1	4 2	5 3	6 4	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				

- Start counting the next business day after the date the request was received
- "Received" = when the GB physically received the PIA request, not when it is opened or read (this includes email)



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Counting Business Days

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 1	20 2	21
22	23 3	24 City Closed Christmas Eve	25 City Closed Christmas Day	26 City Closed Day After Christmas	27 4	28
29	30 5	31 City Closed New Year's Eve*	1 City Closed New Year's Day	2 6	3 7	4
5	6 8	7 9	8 10	9	10	11



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Consequences for Missing Deadlines

- Mandatory exceptions are **not waived** but permissive exceptions are **waived**
- Examples of ways in which permissive exceptions may be waived:
 - 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
 - Fail to submit copy of request within 15 business day deadline
- Potential criminal penalties
- Civil penalties that may be initiated by either the local district or county attorney's office, the OAG, or the requestor
- Refer to the [Public Information Act Handbook](#) for a discussion of mandatory and permissive exceptions

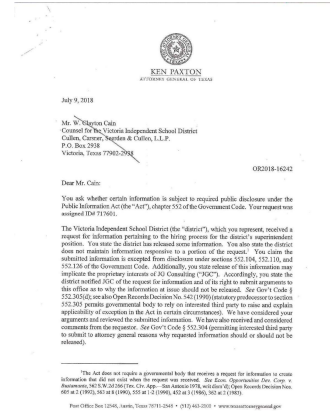


Gov't Code §§ 552.302, 552.321, 552.3215, 552.328, 552.353

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OAG Decision

- OAG will issue an informal letter ruling in response to city's request for a ruling within 45 business days
- OAG may extend the deadline one time, in which case the ruling will be issued within 55 business days
- OAG will issue ruling to the city and provide a copy of the ruling to the requestor
- Ruling will determine whether records may be withheld, must be withheld, or must be released



Gov't Code § 552.306(a)

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What To Do After Receiving an OAG Decision

- **City must as soon as practicable but within a reasonable period of time after the decision is issued:**
 - Produce the information, if required by ruling
 - Notify the requestor in writing if information is being withheld
 - Provide itemized estimate of charges for production of the documents
 - If voluminous, follow new batch information release requirements
 - Notify requestor if a lawsuit has been filed against OAG to challenge the ruling
- **Compliance is presumed reasonable if proper actions are taken within 30 days of decision issuance**



Gov't Code § 552.306

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Can a City Challenge an OAG Ruling?

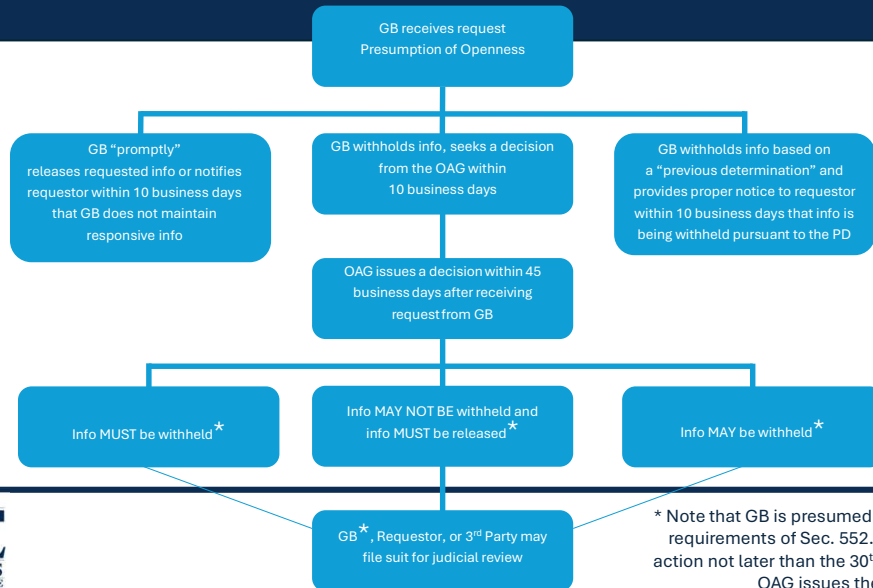
- GBs are prohibited from requesting a reconsideration
- Instead, if GB disagrees with OAG's legal interpretation, it may file a lawsuit in accordance with the PIA
- Lawsuit must be filed no later than the 30th calendar day after the OAG decision is issued



Gov't Code §§ 552.301(f), 552.324

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Basic Process for Governmental Bodies



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Role of OAG in PIA

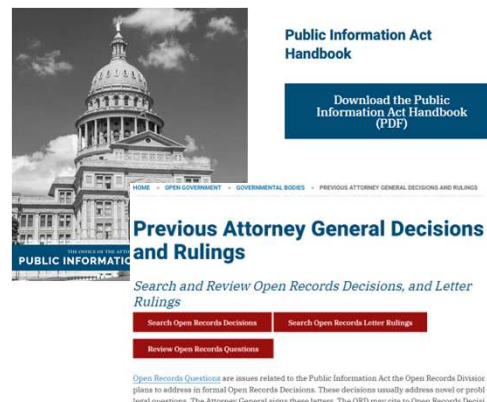


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PIA Decisions

The OAG is authorized to:

- Prepare, distribute, and publish materials, including detailed and comprehensive written decisions and opinions, in order to maintain uniformity in the application, operations, and interpretation of the PIA (**Gov't Code § 552.011**)
- Issue decisions on whether the requested information is subject to the exceptions to disclosure found in the PIA (**Gov't Code § 552.306**)



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PIA Education and Enforcement

The OAG:

- May file a writ of mandamus or an action for declaratory judgment or injunctive relief to compel compliance with the PIA (**Gov't Code §§ 552.321, 552.3215**)
- Must ensure PIA training is available and require specific training (**Gov't Code § 552.012**)
- Is authorized to issue determinations on costs (**Gov't Code § 552.269**)

Training Resources

Find training resources for the Public Information Act and the Open Meetings Act

The screenshot shows the 'Public Information Cost Estimate Model Form' on the Ken Paxton website. It includes a progress bar with steps: General Information, Detailed Information, Submit, Disputed Board, and Complete. The 'General Information' section is active, showing fields for 'Enter the date your entity received the request for information request' and 'Enter a brief description of the information requested request'. Below these fields are instructions and a reference to Gov't Code § 552.003.



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Penalties and Consequences



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Complaints to OAG

Gov't Code § 552.328 Failure to Respond to a Requestor

- Requestor may send a written complaint to the OAG
- If OAG determines the city improperly failed to respond to a requestor in connection with a request for which a complaint is made:
 - OAG must notify the city in writing and
 - Require city's PIO or designee to complete open records training within 6 months
 - If the city seeks to withhold information in response to the request, the city must request an OAG decision within 5 business days after the date the city receives the notification and release the requested information unless there is a compelling reason to withhold the information



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Formal Complaints

Gov't Code § 552.3215 Declaratory Judgment or Injunctive Relief

- Complaint filed by requestor with district attorney (DA), or county attorney (CA) in county where city is located
- DA or CA for the county may bring action only in district court for that county where the city is located
- 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/requestor 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



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Writ of Mandamus

Gov't Code § 552.321

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



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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 \$4,000 and/or county jail not less than three days or more than three months
- Misdemeanor offense



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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 PIO 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



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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



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Questions?

TML Legal Department

legalinfo@tml.org

(512) 231-7400

<https://www.tml.org/345/Public-Information-Act>

OAG Open Gov't Hotline

1-877-673-6839 or (512) 463-2013

<https://www.texasattorneygeneral.gov/open-government>

