Effective Date: March 25, 1985
Revision Date(s): September 15, 2001; January 12, 2007

I. PURPOSE:

The purpose of this directive is to establish policies and procedures for allowing inspection or providing a copy of public records within a reasonable time after the date on which the copy or inspection is requested.

II. POLICY:

As required by the Texas Public Information Act ("TPIA") set out in Chapter 552 of the Texas Government Code, it is the policy of the City of San Antonio that each person is entitled to complete information about the affairs of government and the official acts of public officials and employees, unless otherwise expressly provided by law.

III. POLICY GUIDELINES:

This directive applies to all City departments of the City of San Antonio. The City Manager as the chief administrative officer of the City of San Antonio is designated under TPIA to be the officer for public information of the City of San Antonio. TPIA also provides that each department head is an agent of the City Manager as the City's officer for public information.

A. Public Information Act Deadlines

TPIA deadlines for governmental bodies and requestors are attached in the Appendix.

B. Prohibitions

1. Employees shall not ever ask the reason or purpose for any person's request for public information;

2. Employees shall not edit, revise, destroy, mutilate, or remove public records without proper authority;

3. Employees shall not release any information that is confidential by law;

4. A requestor is not authorized to remove an original of a public record from City offices.

IV. RESPONSIBILITIES:

A. Departments

1. Departments shall have a designated Public Information Coordinator and an alternate Public Information Coordinator and provide the names to the Public Information Coordinator of the Office of the City Attorney.

2. Each coordinator will ensure that signs advising requestors of their rights under TPIA are clearly posted in customer service areas of the department. Posting is required under Section 552.205 of TPIA.

3. Each coordinator will document the date each request for records is received and will coordinate that department's response. If responsive records might also be maintained in other departments, the coordinator will forward the request to all other relevant departments and the Office of the City Attorney.

4. Each coordinator will maintain a log of all written requests for records for a minimum of two calendar years;

5. All City records are subject to TPIA and must be provided to requestors promptly, unless the information is subject to a mandatory or discretionary exception to disclosure. Both mandatory and discretionary disclosure exceptions must be approved by the Office of the Attorney General.

   Departments that would like to withhold records under a discretionary exception, or that are compelled to withhold records under a mandatory exception to disclosure must submit a copy of the request and a copy of all records at issue to the Office of the City Attorney immediately, but no more than three (3) business days, after the receipt of the request. The Office of the City Attorney shall prepare the City's request to withhold records and submit the request to the Office of the Attorney General no later than 10 business days after the City's receipt of the request, as is required by Section 552.301 of TPIA.

6. TPIA provides the following categories of information are public information and are not excepted from required disclosure unless they are expressly confidential under other law:

   a. a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108 (law enforcement matters);

   b. the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

   c. information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;

   d. the name of each official and the final record of voting on all proceedings in a governmental body;

   e. all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;

   f. the name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code;

   g. a description of an agency's central and field organizations, including:

(i) the established places at which the public may obtain information, submit information or requests, or obtain decisions;
(ii) the employees from whom the public may obtain information, submit information or requests, or obtain decisions;
(iii) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and
(iv) the methods by which the public may obtain information, submit information or requests, or obtain decisions;

h. a statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;

i. a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;

j. a substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency;

k. each amendment, revision, or repeal of information described by subsections (g) – (j);

l. final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases;

m. a policy statement or interpretation that has been adopted or issued by an agency;

n. administrative staff manuals and instructions to staff that affect a member of the public;

o. information regarded as open to the public under an agency's policies;

p. information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;

q. information that is also contained in a public court record; and

r. a final settlement agreement to which a governmental body is a party.

7. Charges for providing copies of public information or for the cost of providing records for inspection shall be determined in accordance with Sections 111.61 - .70 of the Texas Administrative Code (TAC), and Sections 552.261 - .274 of TPIA. If the cost to respond to the request is estimated to exceed $40, the department must provide a cost estimate to the requestor **before** records are compiled or copied in accordance with the requirements of Section 552.302 of TPIA. Current TAC charges shall be posted on the City's Open Records Webpage.

For smaller requests, the department may waive charges for copies of up to 50 pages where response time is less than one-half hour, i.e. the department may waive costs up to $5.00. For requests in which the requestor has asked for waiver or reduction of charges because the request is in the public interest, consult with the Office of the City Attorney.

8. If City staff requires more than 10 business days to provide public records to a requestor because of the volume of the request or other extenuating circumstances and if the City is not submitting a request to withhold to the Office of the Attorney General, TPIA requires that the coordinator shall send a letter to the requestor by the 10th business day after receiving the request certifying when (date and hour) and where the records will be made available.

9. TPIA provides that the City must seek exemption from disclosure under the mandatory exceptions and may seek exemption from disclosure under the discretionary exceptions.

   Mandatory exceptions for which the City <u>must</u> submit a request to withhold to the Office of the Attorney General include:

   a. Information confidential by law. Confidential information includes but is not limited to:
      - private medical information
      - homeland security information
      - uniformed personnel files (Local Gov't Code Chap. 143)
      - juvenile conduct records
      - abuse/neglect of child records
      - plate/VIN/driver's license numbers
      - sexual assault information

   b. Trade secrets/proprietary information of outside parties;

   c. Personal information regarding public employees: home address, telephone numbers, social security numbers or information that reveals whether a person has family members;

   d. Crime victim information and information regarding deferred adjudications;

   e. Family violence shelter center and sexual assault program information;

   f. Credit card, debit card, charge card and access device numbers;

   g. Email addresses of members of the public communicating with government, but not addresses of vendors, contractors or addresses listed on public documents, including letterheads and coversheets;

   h. Military discharge records;

   i. Social security numbers of living individuals;

   j. Geological information, if confidential;

Discretionary exceptions for which the City may submit a request to withhold to the Office of the Attorney General include:

a. Matters in litigation or settlement negotiations;

b. Competition or bidding information while negotiation or evaluations are pending;

c. Location or price of property prior to public purchase;

d. Drafts and working papers of ordinances;

e. Economic development information, negotiations with a business prospect that the City seeks to have locate, stay or expand in the area, while negotiations are active;

f. Memoranda discussing development or implementation of public policy;

g. Audit working papers;

h. Law enforcement information if disclosure would impair investigation;

i. Public power utility competitive matters;

j. Security information related to computers.

TPIA provides that records which are subject to a discretionary exception will be presumed public and subject to release if the governmental entity fails to submit its request to withhold to the Office of the Attorney General by the 10th business day after the receipt of the request.

B. Office of the City Attorney

1. The Office of the City Attorney shall designate a Public Information Coordinator for the Office of the City Attorney;

2. The Office of the City Attorney shall review requests for information sent to the Office of the City Attorney by any department and consult with the department to determine whether any of the requested information is excepted from disclosure;

3. The Office of the City Attorney shall prepare requests to withhold records for submission to the Office of the Attorney General as required by TPIA, no later than the 10th business day after the date of receipt of the request by the City;

4. If the Office of the City Attorney determines that release of records is appropriate or that no exception to disclosure is applicable, the Office of the City Attorney shall notify the affected department and coordinate the release of the records;

5. The Office of the City Attorney must also maintain a log of all written requests received by that department for a minimum of two years.

This directive supersedes all previous correspondence on this subject. Information and/or clarification may be obtained by contacting the Office of the City Attorney at 207-8940.

Michael Bernard
City Attorney

Jan 12, 2007
Date

Approved by:

Sheryl Sculley
City Manager

1-22-07
Date

Public Information Act Deadlines for Governmental Bodies

Step	Action	Section	Deadline	Due	Done
1	Governmental body must either release requested public information promptly, or if not within ten days of receipt of request, its Public Information Officer ("PIO") must certify fact that governmental body cannot produce the information within ten days and state date and hour within reasonable time when the information will be available.	552.221(a) 552.221(d)	Within ten business days of receipt of request for information make public information available, **or**		
			certify to requestor date and hour when public information will be available		
2	Governmental body seeking to withhold information based on one or more of the exceptions under Subchapter C must request an attorney general decision stating all exceptions that apply, if there has not been a previous determination.	552.301(b)	Within a reasonable time, but not later than the tenth business day after receipt of the request for information.		
3	Governmental body must give notice to the requestor of the request for attorney general decision and a copy of the governmental body's request for an attorney general decision.	552.301(d)	Within a reasonable time, but not later than the tenth business day after receipt of the request for information.		
4	Governmental body must submit to the attorney general comments explaining why the exceptions raised in Step 2 apply.	552.301(e)	Within a reasonable time, but not later than the fifteenth business day after receipt of the request for information.		
5	Governmental body must submit to attorney general copy of written request for information.	552.301(e)	Within a reasonable time, but not later than the fifteenth business day after receipt of the request for information.		
6	Governmental body must submit to attorney general signed statement as to date on which written request for information was received.	552.301(e)	Within a reasonable time, but not later than the fifteenth business day after receipt of the request for information.		
7	Governmental body must submit to attorney general copy of information requested or representative sample if voluminous amount of information is requested.	552.301(e)	Within a reasonable time, but not later than the fifteenth business day after receipt of the request for information.		
8	Governmental body must copy the requestor on written comments submitted to the attorney general in Step 4.	552.301 (e-1)	Within a reasonable time, preferably not later than the fifteenth business day after receipt of the request for information.		
9	a) Governmental body makes a good faith attempt to notify person whose proprietary information may be protected from disclosure under sections 552.101, 552.110, 552.113, or 552.131. Notification includes: 1) copy of written request; 2) letter, in the form prescribed by the attorney general, stating that the third party may submit to the attorney general reasons requested information should be withheld.	552.305(d)	Within a reasonable time, but not later than the tenth business day after date governmental body receives request for information.		
	b) Third party may submit brief to attorney general.	552.305(d)	Within a reasonable time, but not later than the tenth business day of receiving notice from governmental body.		

Step	Action	Section	Deadline	Due	Done
10	Governmental body must submit to attorney general additional information if requested by attorney general.	552.303(d)	Not later than the seventh calendar day after date governmental body received written notice of attorney general's need for additional information.		
11	Governmental body desires attorney general reconsideration of attorney general decision.	552.301(f)	Public Information Act prohibits a governmental body from seeking the attorney general's reconsideration of an open records ruling.		
12	Governmental body files suit challenging the attorney general decision.	552.324	Within thirty calendar days after the date governmental body receives attorney general decision.		
13	Governmental body files suit against the attorney general challenging the attorney general decision to preserve an affirmative defense to prosecution for failing to produce requested information.	552.353 (b)	Within ten calendar days after governmental body receives attorney general's decision that information is public.		

Public Information Act Deadlines for Requestor

Step	Action	Section	Deadline	Due	Done
1	Requestor may submit to attorney general reasons requested information should be released when request for attorney general decision is pending.	552.304	Public Information Act has no deadline. Requestors wishing to submit information should contact attorney general to obtain deadline.		
2	Requestor may file writ of mandamus if governmental body refuses to request an attorney general decision or refuses to release information that the attorney general determined is public information.	552.321	No deadline specified in chapter 552, Government Code.		
3	**Complaints: Requestor files with district or county attorney.** Requestor may file complaint with district or county attorney alleging violation of Public Information Act.	552.3215(e)	No deadline specified in chapter 552, Government Code.		
4	**Complaints: District or county attorney.** If a complaint is filed with the district or county attorney, the district or county attorney shall determine whether to bring declaratory or injunctive action based on allegations of violations of the Public Information Act.	552.3215(g)	Before the thirty-first day after the complaint is filed with the district or county attorney.		
5	**Complaints: Notice of determination.** The district or county attorney shall notify the complainant of the determination on whether to bring declaratory or injunctive action based on the requestor's complaint.	552.3215(g)	Before the thirty-first day after the complaint is filed with the district or county attorney.		
6	**Complaints: Conflict of interest.** If the district or county attorney believes there is a conflict of interest, the district or county attorney shall inform the complainant of that decision and of the complainant's right to file with the attorney general's office.	552.3215(h)	Before the thirty-first day after the complaint is filed with the district or county attorney.		
7	**Complaints: No action filed.** If the district or county attorney decides not to bring an action, it shall return the complaint to the complainant with a statement explaining the basis for that determination.	552.3215(h)	Before the thirty-first day after the complaint is filed with the district or county attorney.		
8	**Complaints: Complainants' rights.** If the district or county attorney decides not to bring an action, the complainant is entitled to file the complaint with the attorney general.	552.3215(i)	Before the thirty-first day after the date the complaint is returned to the complainant.		
9	**Complaints: Attorney General.** On receipt of the complaint, the attorney general shall comply with the requirements in subsections 552.3215(g) and (h).	552.3215(j)	Before the thirty-first day after the complaint is filed with the attorney general.		