

SUBJECT TEXAS PUBLIC INFORMATION ACT	Departmental Policy No. 1-12
	Effective: Upon Approval

I. PURPOSE

To establish procedures for responding to requests to provide access to or copies of documents under the Texas Public Information Act (formerly the Texas Open Records Act).

II. SCOPE

This policy applies to all Department of Public Works and Engineering employees and supersedes all former Departmental policies, procedures, and directives.

III. DEFINITION

Department Texas Public Information Act (TPIA) Coordinator – the employee designated by the Director to coordinate timely responses to open records requests.

Division TPIA Coordinator – the employee designated by a Deputy Director to coordinate timely responses to open records requests within their division.

Public Information Officer – the employee responsible for responding to and addressing concerns of the public, the media, department personnel, and other department representatives regarding topics related to the activities of Public Works and Engineering.

Public Information/Public Record – information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it. It can be stored in various media such as paper, film, magnetic, optical, or solid state device that can store an electronic signal, tape, Mylar, linen, silk, and vellum.

Requester – one who submits a written request to the Department of Public Works and Engineering for public records. Requests can be submitted by mail, hand-delivery, e-mail, or fax.

IV. POLICY

Under the Texas Public Information Act, “each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of

Approved: 	Date Approved: 8/19/88	Page 1 of 6
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government and the official acts of public officials and employees.” The Act is to be liberally construed in favor of granting a request for information. As required by state law, all requests for public information must be responded to promptly, but no later than 10 working days from the date the City received the request.

A subpoena is not a TPIA request. When a subpoena is received, it is to be forwarded to the Records Management Supervisor in the Legal Department, with a copy retained by the department.

V. RESPONSIBILITIES

A. Director

1. Serves as the department’s officer for public information and has designated his Deputy Directors as his agents pursuant to the Texas Public Information Act (TPIA).
2. Designates an employee to serve as the Department TPIA Coordinator and provides written notice of such to Deputy Directors, Division TPIA Coordinators, Legal Department, and Mayor’s Office.
3. Delegates authority to Department TPIA Coordinator to refer and monitor TPIA requests received by the department.

B. Deputy Directors

1. Designate Division TPIA Coordinators and alternates to process and monitor completion of TPIA requests.
2. Notify all division employees of the name of the Division TPIA Coordinator and its alternate.
3. Review requests received by the division to ensure division personnel are complying with Texas Public Information Act.
4. Ensure timely completion of all TPIA requests.

C. Department Public Information Officer

1. Refers all TPIA requests received from the media to the Department TPIA Coordinator.
2. Responds to all other media questions or requests for information concerning departmental activities or services.
3. Supports Department TPIA Coordinator and serves as Acting Department TPIA Coordinator when needed.

SUBJECT Texas Public Information Act	Departmental Policy No.: 1-12	Page 2 of 6
	Effective date: Upon Approval	

D. Department TPIA Coordinator

1. Refers each TPIA request immediately upon receipt to the appropriate Division TPIA Coordinator.
2. Maintains log of TPIA requests by documenting summary of request, date request received, date response due, and Division TPIA Coordinator assigned.
3. Follows up with Division TPIA Coordinator before the 10th business day to receive a status on the response and to ensure that a response is provided within the 10th business day.
4. Communicates with Legal Department when assistance is needed or when information is anticipated being excepted from public disclosure. Informs Legal Department when departmental facility and governmental building information is requested.
5. Provides periodic reports to Director on status of completion of TPIA requests by the divisions.
6. Coordinates TPIA training classes offered by Legal Department for Division TPIA Coordinators and PWE Employees to be informed about the TPIA provisions and latest legislative changes.

E. Division TPIA Coordinators

1. Immediately forward any TPIA request directly received to Department TPIA Coordinator.
2. Maintain a log of TPIA requests received from Department TPIA Coordinator.
3. Follow up with employees within same division to ensure documents are located in a timely manner.
4. Contact Department TPIA Coordinator if there is any question as to whether the document can be excepted from disclosure.
5. Immediately seek clarification from Requester if TPIA request is not clear.
6. Ensure response is provided within established due date. Response to be either for document offering or to request additional time for TPIA request processing.
7. Ensure division employees are familiar with the TPIA and its provisions.
8. Obtains copying permission from 3rd party for TPIA requests involving copywrited information.

F. PWE Employees

1. If the request for a document is received verbally, directs requester to submit request in writing to Department TPIA Coordinator.

SUBJECT Texas Public Information Act	Departmental Policy No.: 1-12	Page 3 of 6
	Effective date: Upon Approval	

2. Immediately notify their Division TPIA Coordinator when a request to review or copy a department document is received. Provide a copy of the request to the Division TPIA Coordinator for referral to the appropriate employee for handling or for referral to the Department TPIA Coordinator.
3. Locate documents requested in any TPIA request timely as directed by the Division TPIA Coordinator.
4. If a question arises concerning whether a document is excepted from public disclosure, contact Division TPIA Coordinator immediately.
5. Locate, copy, and forward documents in response to subpoenas to the appropriate Legal Department personnel timely.

VI. PROCEDURES

A TPIA request for information in the Department of Public Works and Engineering's custody must be submitted in writing and must be in the form of letter (mail or hand-delivery), fax, or e-mail. If the information exists and it is identified as being releasable, the requester is informed via cost estimate communication (letter or e-mail) that responsive documents are available for inspection and that copies of responsive documents will be sent when payment is received. The cost estimate should be provided by the Department TPIA Coordinator or the Division TPIA Coordinator within 10 business days of receiving the TPIA request. If the requester fails to communicate with Department TPIA Coordinator or Division TPIA Coordinator after the cost estimate has been sent, then the request is officially withdrawn. If the requester chooses to inspect documents, then arrangements must be made for the requester to view documents. Typically, there is no cost to view documents. If the requester chooses to obtain copies of documents, then payment (check or money order only) must be made payable to the City of Houston. Copies will be offered when payment is received. The Department TPIA Coordinator and the Division TPIA Coordinator receive payments for TPIA requests and forward them to the Resource Management Division for General Fund deposit.

The requester should generally be charged 10 cents per page for readily available and standard-sized copies. Should the requester review the information and only desire a portion of the information, the 10 cents per page charge would apply only to the copies the requester receives along with applicable personnel and retrieval charges. If no copies are requested, there is no charge unless the information is older than five years or completely fills six or more archival boxes and more than five hours is required to make the information available. The General Services Commission establishes charges for non-standard-sized copies, non-paper copies, and costs of retrieval of information not

<p>SUBJECT</p> <p>Texas Public Information Act</p>	<p>Departmental Policy No.:</p> <p>1-12</p>	<p>Page 4 of 6</p>
	<p>Effective date:</p> <p>Upon Approval</p>	

readily available. The Department TPIA Coordinator must be contacted if there are any cost questions.

If some/all of the requested information does not exist, a written response must be provided to the requester within 10 business days of receiving the request explaining that some/all of the information cannot be provided because it does not exist. If the requested information is in archives or voluminous and the Division TPIA Coordinator is unable to produce the documents within 10 business days, the Division TPIA Coordinator must send a letter to the requester no later than the 10th business day explaining the reason for the delay and provide a date of when the information would be available for review or copy.

If a question arises as to whether the requested information is public or excepted from disclosure, the Department TPIA Coordinator immediately forwards the request to the Legal Department, Division Chief of the General Counsel Division or his/her designee. The Legal Department reviews the request to determine if the requested information could be excepted from public disclosure. If the Legal Department determines that the requested information might be excepted from public disclosure, then the Legal Department requests an opinion from the State Attorney General's Office by submitting responsive documents and identifying the reasons for exception. The Legal Department must make an opinion request within 10 business days of the date the request was received by the Department of Public Works and Engineering or the information is presumed public. If the information is voluminous or repetitive, the Legal Department submits a representative sample to the State Attorney General's Office. The Department of Public Works and Engineering and the Legal Department are informed about the Texas Attorney General's opinion and proceed accordingly.

VII. EXCEPTIONS TO THE TPIA

The following is a partial list of some types of information which may be excepted from public disclosure:

1. **PERSONNEL INFORMATION:** Each employee may choose whether to allow public access to information relating to his/her home address, home telephone number, social security number, and/or whether the person has family members. The employee's choice must be on file with the Human Resources Department before an open records request for the information is received. Medical information is generally protected.

<p>SUBJECT</p> <p>Texas Public Information Act</p>	<p>Departmental Policy No.:</p> <p>1-12</p>	<p>Page 5 of 6</p>
	<p>Effective date:</p> <p>Upon Approval</p>	

2. **INFORMATION RELATED TO COMPETITION OR BIDDING:** Information that, if released before City Council awards a contract, would give advantage to a competitor or bidder.
3. **AGENCY MEMORANDA:** Internal communications consisting of advice, recommendations, or opinions reflecting the policy-making processes of the City.
4. **LITIGATION:** Information relating to pending or anticipated litigation involving the City. It is particularly important that requests from someone who has asserted a claim against the City be reviewed by the Legal Department to determine whether litigation is pending or anticipated.
5. **COMMERCIAL INFORMATION:** Trade secrets or commercial or financial information obtained from a person or company.
6. **HOMELAND SECURITY:** Texas Homeland Security Act makes confidential certain information related to terrorism and security.

Contact immediately the Department TPIA Coordinator for any requests that appear to come within these categories.

VIII. COMPLIANCE

Adherence to the above is mandatory. Any employee who violates this policy may be subject to disciplinary action up to and including indefinite suspension. Additionally, improperly withholding information from public disclosure is a misdemeanor.

SUBJECT Texas Public Information Act	Departmental Policy No.: 1-12	Page 6 of 6
	Effective date: Upon Approval	