



INFORMATION SHARING FOR CITY OFFICIALS UNDER TPIA

March 27, 2025

City of Houston Ethics and Governance Committee

**Danielle Folsom, Senior Assistant City Attorney
General Counsel Section, City of Houston Legal Department**



Texas Public Information Act

- **Chapter 552, Texas Government Code**
 - Contains rules and processes for responding to public information requests
 - Presumption that City records are available to the public (§ 552.021)
 - Contains a laundry list of both discretionary and mandatory exceptions to public disclosure (Subchapter C)
 - Also incorporates other state and federal statutes, or constitutional or judicial decision
 - Generally, cannot unilaterally withhold information without permission of requestor or Texas Attorney General's Office
- **Purpose:** To encourage open government by providing citizens with *equal access* to “complete information about the affairs of government and the official acts of public officials and employees.”

What is public information?

Gov't Code § 552.002

- “Public Information” (Tex. Gov’t Code § 552.002(a)):
 - Information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of City business
 - By the City
 - Ex: physical records in City offices or electronic records on City servers
 - For the City and the City owns the information, has a right of access to it, or spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
 - Ex: records regarding a City contract in the custody of a City contractor or agent
 - By an individual officer or employee of the City in the officer or employee’s official capacity and the information pertains to official business of the City
 - Ex: emails or text messages or call logs in a personal cell phone regarding City business

Common Descriptions/Categories of Information

- **“Public Information”** – defined term to describe any information subject to requirements of TPIA, not necessarily public
- **Public/Releasable** – information that can or must be released to the public
- **Confidential** – information that cannot generally be shared with external parties and release would be violation of the law
- **Proprietary** – Commercial information relating to a company, often protected by copyrights or trademarks, not available for general use, and which, if distributed, may provide advantages to competitors
- **Sensitive/Internal/Drafts** – Terms used to denote information not readily available for sharing with the public for a variety of reasons; may or may not be confidential by law

552.101 Information Confidential by Law

552.107 Certain Legal Matters (Attorney-Client Privilege)

552.110 Certain Commercial Information

552.1101 Confidentiality of Proprietary Information

552.117 Certain Addresses, Telephone Numbers, and Personal Family Information of Government employees

552.130 Motor Vehicle Records

552.136 Confidentiality of Credit Card, Debit Card, and Access Device Numbers

552.137 Confidentiality of Certain Email Addresses

552.147 Social Security Numbers

Common Mandatory (Confidentiality) Exceptions to Public Disclosure

552.103 Information Related to Litigation

552.104 Information Related to Competitive Bidding

552.105 Information Related to Location or Price of Property

552.106 Certain Legislative Documents

552.108 Certain Law Enforcement Records

552.111 Agency Memoranda/Deliberative Process

Common Discretionary Exceptions to Public Disclosure

A City Official's Obligation to Safeguard City Records

Tex. Gov't Code § 552.352 – Distribution or Misuse of Confidential Information

- Offense if person distributes information considered confidential under TPIA
- Applies to information made confidential by law; does not apply to all City records or information subject to discretionary exceptions
- Class B Misdemeanor
 - Fine \leq \$1,000 and/or up to 6 months jail time
 - Violation also constitutes “official misconduct”

A City Official's Obligation to Safeguard City Records

Standards of Conduct for City officials and City employees in City's Code of Ordinances

§ 18-3(a)(3): Disclose confidential information concerning the property, operations, policies or affairs of the city, or use such confidential information to advance the personal interests, financial or otherwise, including the property interests, of said official or others, or accept employment or engage in business or professional activity that the official might reasonably expect would require or induce him to disclose confidential information acquired by reason of his official position.

-City officials in violation subject to Class C Misdemeanor (Fine \leq \$500)

§ 14-183(a)(6): Disclose confidential information concerning the property, operations, policies or affairs of the city, nor use such confidential information to advance the personal interests, financial or otherwise, of said employee or others.

- Employees subject to discipline

Inter/Intra-Governmental Transfer

The transfer of information (including confidential information in some circumstances) within the City or between City and other governmental bodies subject to the TPIA is not necessarily a release to the public for purposes of the TPIA. Such information is routinely shared with the following disclaimer.

Example Disclaimer:

Please note that the attached information is being provided to you in your official capacity as a member of the City's governing body. The transfer of these documents to your office is **NOT** a release to the public for purposes of the Texas Public Information Act. Therefore, **you should NOT release** the attached documents to the public, so that the City may preserve its exceptions to public disclosure under the Texas Public Information Act. Additionally, portions of these documents may be confidential by law. Please note that distribution of confidential information is a misdemeanor punishable by a fine up to \$1,000, confinement for up to six months, or both. Further, Section 18-3 of the City Code prohibits disclosure of confidential information acquired by reason of official position.

Best Practices for Handling City Records

- If you receive any documents and records in your official capacity, take note of any disclaimers or labels that may be present categorizing the information.
- When in doubt, speak with the originating department of the records or the Legal Department regarding the status of the records.
- If you receive a TPIA request, please contact the designated PIO for City Council

Resources

- Attorney General's website: <http://www.oag.state.tx.us>
- TPIA 2024 Handbook available online: https://www.texasattorneygeneral.gov/publicinfo_hb.pdf
- Public Information Act Training Video: <https://www.texasattorneygeneral.gov/faq/og-open-government-training-information>
- Administrative Procedure 2-9: Guidelines for Responding to Requests for Public Information: <https://www.houstontx.gov/policies/adminpolicies/2-9.pdf>