

An aerial night view of a city skyline, featuring a prominent skyscraper with a red-lit top section. The city lights are visible in the background, and the sky is dark with some clouds. The text is overlaid on the image.

# ESSENTIALS OF THE PUBLIC INFORMATION ACT

October 5, 2018  
Tyler CLE Roadshow

# What entities are covered by the PIA?

---

- **Tex. Gov't Code Section 552.003 defines “governmental body”**

- \*State agencies

- \*Cities/Counties

- \*Public Schools

- \*Public Universities

- \*Police/Sheriff

- \*County Commissioners

- \*Local workforce development boards

- \*(Does not include the Judiciary)

# Does it need to be a formal request?

---

- Must be in writing
- Fax, email, letter or hand written note
- Ask for information in existence as of the date of the date of the request is received.
  - No requirements to create new documents, answer questions, or perform legal research. *See* ORD 555 (1990) and ORD 563 (1990)

# What do you have to disclose?

---

- Tex. Gov't Code Sec. 552.022 sets (non-limiting) categories of information that is not excepted from disclosure (unless made confidential under Chapter 552 or other law).
- Some examples:
  - Name, sex, ethnicity, salary, title, and dates of employment of employees/officers;
  - Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by the governmental body ...

# We received a Request, now what?

---

- Promptly Produce the Requested Documents
  - *See* Tex. Gov't Code 552.221, defines what it means to “promptly produce”
- Voluminous Request?
  - Certify in writing to the requestor:
    - You can't fulfill the request in 10 days
    - Set a date and hour within a “reasonable time” when information will be available.
- You anticipate any of the documents may be excepted from disclosure?
  - 10 days to file a request for a determination with the OAG. *See* Tex. Gov't Code 552.301

# Don't Ask Why – Ask for Clarification

---

- Don't Ask Why – See Tex. Gov't Code 552.222
- Can Request to clarify a request and/or discuss with requestor how scope of request might be narrowed (if voluminous). See *City of Dallas v. Abbot*, 304 SW3d 380, 387 (Tex. 2010)
- No response to clarification request in 61 days, request can be considered withdraw (must notify the requestor).

# What to include in the 10 day Letter?

---

- Ask the AG for a ruling and state the exceptions that apply.
- Attach a copy of the request.
- Provide the requestor a copy of your letter to the AG requesting a ruling.
- Notify Third Parties with proprietary interest in the requested information that they may submit written documents to the AG stating why their information should be withheld (special requirements).

# Counting Days – What days Count?

---

- Start Counting the next business day after receiving a written request.
- Received means it is physically received, not when it is open or read (this includes emails).
- Saturdays, Sundays and Holidays (don't count) ... Notify the AG of those dates if requesting a decision.



# More Dates ... 15 Days – Brief in Support

---

- Written comments stating why the exceptions apply.
- Copy of the Request for Information.
- Signed statement as to the date on which request was received by the entity (or other evidence to establish that date).
- Copy of the information being requested (representative samples – if voluminous) .
- Label the specific information to indicate which exceptions apply.
- Send a copy of your written comments to the requestor.

# Missed a deadline? – Use it OR Lose it!

---

- Mandatory Exception – NOT waived
  - Update and Confirm before reliance.
- Permissive Exceptions – WAIVED!
  - Can be withheld from disclosure after waiver if proving a compelling reason to the Attorney General. (Don't rely on it.)

Mandatory	Permissive
Sec. 552.101 Confidential Information	Sec. 552.103 Litigation or Settlement Negotiations
Sec. 552.102/.117 Personnel/Employee Information	Sec. 552.104 Competition or Bidding Information
Sec. 552.110 Trade Secrets	Sec. 552.106 Legislative Documents
Sec. 552.1085 Sensitive Crime Scene Image	Sec. 552.111 Agency Memo
Sec. 552.1175 Identifying Information (Law Enforcement and Other Specific Officials)	Sec. 552.116 Audit Working Papers
Sec. 552.129/.130 Motor Vehicle Inspection/Records	Sec. 552.153 Proprietary Records/Trade Secrets in certain Partnerships (PPPs for infrastructure/facilities)
Sec. 552. 131 Economic Development Information (3d Party Harm)	
Sec. 552.139 Information Related to Security/Infrastructure for Computers	
	*Sec. 552.107 Attorney/Client Privilege

This is not an extensive list. Should consult Tex. Gov't Code Chapter 552 to review all exceptions provided. In addition, the Tex. Attorney General has the 2018 handbook that can be downloaded at:

[https://www.texasattorneygeneral.gov/sites/default/files/2018-06/PIA\\_handbook\\_2018\\_0.pdf](https://www.texasattorneygeneral.gov/sites/default/files/2018-06/PIA_handbook_2018_0.pdf)

# Appeal/Challenge a Ruling

---

- Request for Reconsideration - Prohibited
- File suit against the AG (no later than 30<sup>th</sup> calendar day, after receipt of the AG decision). *See* Tex. Gov't Code Sec. 552.324

# QUESTIONS?

Victor A. Flores  
Assistant City Attorney  
City of Plano – City Attorney's Office  
[vflores@plano.gov](mailto:vflores@plano.gov)