



## **PUBLIC INFORMATION POLICY & PROCEDURES**

Texas Government Code, Chapter 552, gives you the right to access government records; and an officer for public information and the officer's agent may not ask why you want them. All government information is presumed to be available to the public. Certain exceptions may apply to the disclosure of the information. Governmental bodies shall promptly release requested information that is not confidential by law, either constitutional, statutory, or by judicial decision, or information for which an exception to disclosure has not been sought. The rights, responsibilities, procedures and fees pertaining to information requests are explained further below:

### **Rights of Requestors:**

You have the right to:

- Prompt access to information that is not confidential or otherwise protected;
- Receive treatment equal to all other requestors, including accommodation in accordance with the Americans with Disabilities Act (ADA) requirements;
- Receive certain kinds of information without exceptions, like the voting record of public officials, and other information;
- Receive a written statement of estimated charges, when charges will exceed \$40, in advance of work being started and opportunity to modify the request in response to the itemized statement;
- Choose whether to inspect the requested information (most often at no charge), receive copies of the information or both;
- A waiver or reduction of charges if the governmental body determines that access to the information primarily benefits the general public;
- Receive a copy of the communication from the governmental body asking the Office of the Attorney General for a ruling on whether the information can be withheld under one of the accepted exceptions, or if the communication discloses the requested information, a redacted copy; and
- Lodge a written complaint about overcharges for public information with the Open Records Division of the Office of the Attorney General.

### **Responsibilities of Governmental Bodies:**

All governmental bodies responding to information requests have the responsibility to:

- Establish reasonable procedures for inspecting or copying public information and inform requestors of these procedures;
- Treat all requestors uniformly and shall give to the requestor all reasonable comfort and facility, including accommodation in accordance with ADA requirements;
- Be informed about open records laws and educate employees on the requirements of those laws;
- Inform requestors of the estimated charges greater than \$40 and any changes in the estimates above 20 percent of the original estimate, and confirm that the requestor accepts the charges, or has amended the request, in writing before finalizing the request;
- Inform the requestor if the information cannot be provided promptly and set a date and time to provide it within a reasonable time;
- Request a ruling from the Office of the Attorney General regarding any information the governmental body wishes to withhold, and send a copy of the request for ruling, or a redacted copy, to the requestor;

- Segregate public information from information that may be withheld and provide that public information promptly;
- Make a good faith attempt to inform third parties when their proprietary information is being requested from the governmental body; and
- Respond in writing to all written communications from the Open Records Division, Office of the Attorney General, regarding charges for the information and regarding complaints about alleged violations of the Act.

Procedures to Obtain Information:

If Requestors wish to obtain information through the Public Information Act, Requestors should:

1. Submit a *written* request by mail, fax, email or in person according to a governmental body's reasonable procedures. When submitting a written request to the Denison Development Alliance ("DDA"), please address to the following designated person: Tony Kaai, 115 N. Rusk Ave., Denison, TX 75020; tkaai@denisontx.org.
2. Include enough description and detail about the information requested to enable the governmental body to accurately identify and locate the information requested.
3. Cooperate with the DDA's reasonable efforts to clarify the type or amount of information requested.
4. Respond in writing to an itemized statement of charges and an updated itemized statement of charges, if provided, as noted below.
5. Keep all appointments to inspect records and to pick up copies. Failure to keep appointments may result in losing the opportunity to inspect the information at the time requested.

**A. Information to be released**

- Requested information must be in existence as of the date the written request was received. The governmental body is not required to create new documents, answer questions or perform legal research.
- Acting in good faith, the governmental body/public information officer may ask for clarification of the request or discuss with you how the scope of request might be narrowed. If there is no response to the request for clarification/narrowing of scope, the informational request may be considered withdrawn after sixty (60) days.
- If the governmental body cannot produce the requested information within 10 working days the public information officer will notify you in writing of the reasonable date and time when it will be available.
- Written Response Required to Estimated Charges:
  - You must respond in writing to any written estimate of charges within 10 days of the date the governmental body sent it to you that (1) you will accept the estimated charges; (2) you are modifying the request in response to the itemized statement; or (3) you have sent to the attorney general a complaint alleging that you have been overcharged for being provided with a copy of the public information.
  - The request is considered automatically withdrawn if you do not respond in writing to the itemized statement within 10 days.
  - If the governmental body later determines, but before it makes the copy or the paper record available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, the governmental body shall send to you a written updated itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If you do not respond to the updated itemized statement within 10 days, the request is considered to have been withdrawn.
  - You are considered to have responded to the itemized statement or the updated itemized statement on the date that (1) your response is delivered to the governmental body in person; (2) you deposit the properly addressed response in the United States mail; or (3) you transmit the properly addressed response to the governmental body by electronic mail or facsimile transmission.

**B. Information that may be withheld due to an exception**

- By the tenth (10th) business day after a governmental body receives your written request, a governmental body must:

1. Request an Attorney General opinion and state which exceptions apply;
  2. Notify the requestor of the referral to the Attorney General; and
  3. Notify third parties if the request involves their proprietary information.
- Failure to request an Attorney General opinion and notify the requestor within 10 business days will result in a presumption that the information is open unless there is a compelling reason to withhold it.
  - Requestors may send a letter to the Attorney General arguing for release and may review arguments made by the governmental body. If the arguments disclose the requested information, the requestor may obtain a redacted copy.
  - The Attorney General must issue a decision no later than the 45th working day from the day after the attorney general received the request for a decision. The attorney general may request an additional 10-day extension.
  - Governmental bodies may not ask the Attorney General to "reconsider" an opinion.
  - Information that may be withheld without requesting a ruling from the Attorney General includes, but is not limited to, information related to an individual's driver's license, motor vehicle title or registration, personal identification documents, credit card, debit card, access device numbers, personal information of certain public employees, etc.

#### Fees for Providing Copies of Information:

In accordance with Section 552.262, the charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information will not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in: (1) two or more separate buildings that are not physically connected with each other; or (2) a remote storage facility.

If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

If the requestor does not request a copy of public information, a charge may not be imposed for making available for inspection any public information that exists in a paper record, except if a requested page contains confidential information that must be edited from the record before the information can be made available for inspection, the governmental body may charge for the cost of making a photocopy of the page from which confidential information must be edited. No charge other than the cost of the photocopy may be imposed in this situation.

An officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records only if: (1) the public information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and (2) the officer for public information or the officer's agent estimates that more than five hours will be required to make the public information available for inspection.

If the governmental body has fewer than 16 full-time employees, the payment, the deposit, or the bond may be required only if (1) the public information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and (2) the officer for public information or the officer's agent estimates that more than two hours will be required to make the public information available for inspection.

The Denison Development Alliance (DDA) follows the rules of the Office of the Attorney General for determining the charge, deposit or bond required for providing information. DDA's current Charge Policy is as follows:

- Paper copies are \$.10/per printed page;

- \$15/hour personnel time to compile and copy;
- \$28.50/hour computer programming personnel time;
- Overhead charge of 20% of personnel time; and
- Postage charges via first class mail.

Pursuant to Texas Government Code Section 552.2615, if a request for a copy of public information will result in the imposition of a charge that exceeds \$40, or a request to inspect a paper record will result in the imposition of a charge under Section 552.271 that exceeds \$40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative, less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. The governmental body must inform the requestor of the responsibilities imposed on and rights granted to the requestor and give the requestor the information needed to respond, including: (1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide; (2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and (3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

If the actual charges that a governmental body imposes for a copy of public information, or for inspecting a paper record under Texas Government Code Section 552.271, exceeds \$40, the charges may not exceed: (1) the amount estimated in the updated itemized statement; or (2) if an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the itemized statement.

An itemized statement or updated itemized statement is considered to have been sent by the governmental body to the requestor on the date that: (1) the statement is delivered to the requestor in person; (2) the governmental body deposits the properly addressed statement in the United States mail; or (3) the governmental body transmits the properly addressed statement by electronic mail or facsimile transmission, if the requestor agrees to receive the statement by electronic mail or facsimile transmission, as applicable.

DDA may waive any charges, at the discretion of DDA's President or his/her designee, if DDA determines that a waiver or reduction of the charge is in the public interest. Additionally, under Texas Government Code, Section 552.264, information requested by a member, agency, or committee to use for legislative purposes is provided free of charge. Further, DDA makes available to the public at no charge a large quantity of information on our website.

If you have any questions regarding this report or require additional information, please contact DDA's President, Tony Kaai, CEcD, at [tkaai@denisontx.org](mailto:tkaai@denisontx.org), [\(903\) 464-0883](tel:9034640883).