

Draft Translation:

China Administrative Transparency Watch Annual Report 2011-2012

General report

**Peking University Center for Public Participation Studies and Supports
September 2012 Beijing**

Section 4 Summary and Outlook

Disclosure is an upward force, and promoting the disclosure of government information is releasing positive energy. Disclosure is the best antiseptic, and promoting the disclosure of government information is the most effective way to enhance the credibility of the government. It has been more than four years since the implementation of the "Regulations of the People's Republic of China on the Disclosure of Government Information", and the evaluation of open government information has been carried out for three consecutive years. Judging from the practical development in the past few years, the most obvious progress of government information disclosure is the improvement of relevant basic systems. The most prominent performance of government information disclosure is the government information disclosure measures of some provincial and prefecture-level governments represented by Beijing. The most eye-catching is the disclosure of budget and final accounts, and the most anticipated is the information disclosure of public enterprises and institutions. The long-term development of government information disclosure comes from the benign interaction between the government and citizens.

Four years is a very short period of time for the construction and development of a system. The exploration and practice of government information disclosure is far from mature and perfect. Facing the future, we are full of confidence. This government information disclosure evaluation is carried out at multiple levels of agencies under the State Council and provincial, prefectural, and county-level governments. The problems in the practice of information disclosure by the central and local governments are specifically explained in relevant reports and summaries, and will not be repeated here. The following focuses on the future breakthroughs of government information disclosure work and put forward the following prospects:

First, take the opportunity of comprehensively promoting the disclosure of budget and final accounts information, enhance the timeliness, effectiveness, and convenience of active disclosure, actively respond to the needs of social government information disclosure, win the trust of the people with the actual results of active disclosure, and improve the level of government and social credibility. . First, the state has made a political decision to comprehensively promote the disclosure of budget and final accounts information. This can be reflected in two aspects. On May 17 this year, the General Office of the State Council announced the "2012 Key Work Arrangements for Government Information Disclosure", which stipulated

that governments at all levels should focus on promoting government information disclosure this year in 8 areas, including fiscal budget and final accounts, and the "three public" funds, as well as food safety, environmental protection, land acquisition and demolition disclosure, and require all leading departments to report the progress of relevant work to the General Office of the State Council before the end of October 2012. The General Office of the State Council will report the implementation of government information disclosure in due course and carry out supervision; the draft amendment to the Budget Law submitted to the Standing Committee of the National People's Congress for deliberation on June 26 this year clearly stipulates for the first time that governments at all levels should disclose their budgets and final accounts to the public in a timely manner, so as to ensure the public's right to know and supervise financial affairs from a legal level in the next step, establishing the top-level design of that right and providing the possibility of its realization. Governments at all levels should decisively, proactively and without delay translate this political decision into administrative practice.

Second, implement the "Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Administrative Cases on Open Government Information" (hereinafter referred to as the "Provisions"), give play to judicial initiative, and further strengthen judicial supervision of open government information and smooth judicial relief for open government information. The promulgation of the "Regulations" made specific provisions on the scope of acceptance of government information disclosure cases and the burden of proof, and clarified a number of key issues in the trial of government information disclosure cases. Appropriate active justice is the catalyst to promote the benign interaction between the government and the public in the process of government information disclosure. On the one hand, it can open the door to judicial relief, protect the public's legitimate appeals for government information disclosure, and safeguard the public's right to know and supervise; It is conducive to promoting the improvement of government transparency. In the next step, courts at all levels should be promoted, encouraged and supported to actively apply the Provisions in accordance with the law in their actual trial work. While exerting the role of judicial relief in individual cases, they should explore and summarize experience through individual case trials, so as to solve the problem of government information disclosure in accordance with applications. The problems and obstacles encountered provide further judicial guidance.

Third, starting from the hotspots and focuses around the public, the information disclosure of public enterprises and institutions should be implemented. First of all, it is necessary to fully understand the importance of promoting government information disclosure in public enterprises and institutions, and continuously enhance the service awareness of public enterprises and institutions and their staff in government information disclosure. The relevant competent departments or agencies of the State Council shall strengthen organizational leadership, conscientiously make arrangements for work, and further strengthen the training on government information disclosure business for persons in charge of public enterprises and institutions and relevant staff. Let information closely related to the interests of the general public be released in a timely manner, so that relevant public service information disclosure applications can be handed in, and truly form a positive interaction mechanism for public enterprises and institutions to disclose information on their own initiative and upon application. Second, it is necessary to put in place the content that public enterprises and institutions focus on voluntary disclosure. In order to implement Article 37 of the "Regulations", relevant central ministries and some local

governments have issued relevant documents, which clearly stipulate the key content of the corresponding public enterprises and institutions to proactively disclose. It is necessary to promote the effective implementation of relevant regulations by establishing an effective reward and punishment mechanism, increasing supervision and accountability. Furthermore, it is necessary to study the introduction of effective external supervision and relief mechanisms. Under the existing legal framework, government information disclosure activities by administrative agencies and organizations authorized by laws and regulations have been included in the scope of judicial review. However, there is no definite conclusion in both theoretical research and judicial practice as to whether public enterprises and institutions can seek judicial review for government information disclosure activities and what kind of litigation procedures to carry out judicial review. Consideration should be given to reconstructing the concept of the administrative subject, expanding the scope of the administrative subject, and including public enterprises and institutions government information disclosure cases into the scope of administrative litigation, so as to provide more effective judicial relief for the people's right to know. In the future, this problem can be solved by amending the Administrative Litigation Law or issuing a new judicial interpretation on the disclosure of government information.