

Regulations of the People's Republic of China on Open Government Information

(Adopted by the State Council on January 17, 2007; Effective May 1, 2008)

Chapter I. General Principles

Article 1. In order to ensure that citizens, legal persons and other organizations obtain government information in accordance with the law, enhance transparency of the work of government, promote administration in accordance with the law, and bring into full play the role of government information in serving the people's production and livelihood and their economic and social activities, these Regulations are hereby formulated.

Article 2. "Government information" referred to in these Regulations means information made or obtained by administrative organs in the course of exercising their responsibilities and recorded and stored in a given form.

Article 3. The people's governments at all levels should strengthen the organization and leadership of open government information work.

The General Office of the State Council shall be the national department in charge of open government information work. It shall be responsible for promoting, guiding, coordinating and supervising open government information work throughout the whole country.

The general offices of local people's governments at the county level and above or other departments in charge of open government work designated by the local people's governments at the county level and above shall be responsible for promoting, guiding, coordinating and supervising open government information work within their respective administrative areas.

Article 4. The people's government at all levels and the departments of the people's governments at the county level and above should establish and perfect systems for open government information work for their respective administrative organs and designate an office (hereafter referred to as the "office for open government information work") to be responsible for the daily work of open government information for their respective administrative organs.

The specific functions of the office for open government information work are:

- 1) To undertake specific open government information matters for that administrative organ;
- 2) To maintain and update government information disclosed by that administrative organ;
- 3) To organize for that administrative organ the compilation of an open government information guide, open government information catalogue and annual reports on open government information work;
- 4) To conduct examinations for secrecy of government information to be disclosed; and
- 5) To carry out other responsibilities related to open government information stipulated by that administrative organ.

Article 5. When disclosing government information, administrative organs should observe the principles of justice, fairness, and convenience to the people.

Article 6. Administrative organs should disclose government information promptly and accurately. When administrative organs discover false or incomplete information that affects or might affect social stability and disturbs the social management order, they should release, within their scope of responsibility, accurate government information to clarify the situation.

Article 7. Administrative organs should establish and perfect a coordination mechanism for releasing government information. When releasing government information that involves other administrative organs, an administrative organ should communicate and confirm with the administrative organs concerned to ensure the government information released is accurate and consistent.

If the government information to be released by administrative organs needs to be approved in accordance with relevant state regulations, it may not be released without being approved.

Article 8. The government information disclosed by administrative organs may not endanger state security, public security, economic security and social stability.

Chapter II. The Scope of Disclosure

Article 9. Administrative organs should disclose proactively government information that satisfies any one of the following basic criteria:

- 1) Information that involves the vital interests of citizens, legal persons or other organizations;
- 2) Information that needs to be extensively known or participated in by the general public;
- 3) Information that shows the structure, function and working procedures of and other matters relating to the administrative organ; and

- 4) Other information that should be disclosed proactively by the administrative organ according to laws, regulations and relevant state provisions.

Article 10. People's governments at the county level and above and their departments should determine the concrete content of the government information to be disclosed proactively within their scope of responsibility in accordance with the provisions of Article 9 of these Regulations, and emphasize disclosure of the following government information:

- 1) Administrative regulations, rules, and normative documents;
- 2) Plans for national economic and social development, plans for specific projects, plans for regional development and related policies;
- 3) Statistical information on national economic and social development;
- 4) Reports on financial budgets and final accounts;
- 5) Items subject to an administrative fee and the legal basis and standards therefor;
- 6) Catalogues of the government's centralized procurement projects, their standards and their implementation;
- 7) Matters subject to administrative licensing and their legal bases, conditions, quantities, procedures and deadlines and catalogues of all the materials that need to be submitted when applying for the administrative licensing, and the handling thereof;
- 8) Information on the approval and implementation of major construction projects;
- 9) Policies and measures on such matters as poverty assistance, education, medical care, social security and job creation and their actual implementation;
- 10) Emergency plans for, early warning information concerning, and counter measures against sudden public events;
- 11) Information on the supervision and inspection of environmental protection, public health, safe production, food and drugs, and product quality.

Article 11. The government information to be emphasized for disclosure by the people's governments at the level of cities divided into districts and the county level people's governments and their departments should also include the following contents:

- 1) Important and major matters in urban and rural construction and management;
- 2) Information on the construction of social and public interest institutions;
- 3) Information on land requisition or land appropriation, household demolition and resettlement, and the distribution and use of compensation or subsidy funds relating thereto; and
- 4) Information on the management, usage and distribution of social donations in funds and in kind for emergency and disaster relief, special care for families of martyrs and military service personnel, and assistance to poverty stricken and low income families.

Article 12. People's governments at the township (town) level should determine the concrete content of the government information to be disclosed proactively within their scope of responsibility in accordance with the provisions of Article 9 of these Regulations, and emphasize disclosure of the following government information:

- 1) Information on the implementation of rural work policies of the state;
- 2) Information on fiscal income and expenses and the management and use of various specialized funds;
- 3) Overall township (town) land use plans and information on the verification of land to be used by farmers for their primary residences;
- 4) Information on land requisition or land appropriation, household demolition and resettlement, and the distribution and use of compensation or subsidy funds therefor;
- 5) Information on township (town) credits and debts, fund raising and labor levies;
- 6) Information on the distribution of social donations in funds and in kind for emergency and disaster relief, special care for families of martyrs and military service personnel, and assistance to poverty stricken and low income families;
- 7) Information on contracting, leasing and auctioning of township and town collectively owned enterprises and other township and town economic entities; and
- 8) Information on implementation of the family planning policy.

Article 13. In addition to government information disclosed by administrative organs proactively provided for in Articles 9, 10, 11 and 12, citizens, legal persons or other organizations may, based on the special needs of such matters as their own production, livelihood and scientific research, also file requests with departments of the State Council, local people's governments at all levels and departments under local people's governments at the county level and above to obtain relevant government information.

Article 14. Administrative organs should establish and perfect mechanisms to examine for secrecy the government information to be released, and clarify the examination procedures and responsibilities.

Prior to disclosing government information, administrative organs should examine the government information to be disclosed in accordance with the provisions of the Law of the People's Republic of China on Safeguarding State Secrets and other laws, regulations and relevant state provisions.

When an administrative organ is unable to determine if certain government information may be disclosed, it should submit the matter for determination to relevant departments in charge or departments for safeguarding secrecy at the same level as the administrative organ.

Administrative organs may not disclose government information that involves state secrets, commercial secrets or personal privacy. However, government information involving commercial secrets or individual privacy may be disclosed by administrative organs with the consent of the rightholder(s) or if administrative organs believe that non-disclosure might give rise to a major impact on the public interest.

Chapter III. Methods of and Procedures for Disclosure

Article 15. Government information to be disclosed proactively by administrative organs should be disclosed by means of government gazettes, government websites and press conferences, as well as through newspapers and other publications, radio, television and other methods that make it convenient for the public to be informed.

Article 16. The people's governments at all levels should set up government information reading places in the state archives and public libraries and install appropriate facilities and equipment to make it convenient for citizens, legal persons and other organizations to obtain government information.

Administrative organs may set up, as needed, places and facilities such as public reading rooms, materials request stations, information bulletin boards, and electronic information screens to disclose government information.

Administrative organs should provide the state archives and public libraries with government information disclosed proactively in a timely manner.

Article 17. Administrative organs shall be responsible for disclosing government information that they have formulated. Administrative organs that store government information obtained from citizens, legal persons or other organizations shall be responsible for disclosing it. If laws or regulations have different provisions on the scope of authorization to disclose government information, those provisions shall be followed.

Article 18. Government information to be disclosed proactively by administrative organs should be disclosed within 20 business days from the date the information is produced or changed. If laws or regulations have different provisions on the time period for disclosing government information, those provisions shall be followed.

Article 19. Administrative organs should compile and publish open government information guides and catalogues of open government information, and update them in a timely manner.

Open government information guides should include such contents as the types of government information, the system of cataloguing, the methods for obtaining information, and the name, office address, office hours, contact telephone number, fax number and e-mail address of the office for open government information work.

Open government information catalogues should include such contents as an index, the name of the information, a summary of the information contents and the date of creation of the information.

Article 20. Citizens, legal persons or other organizations requesting to obtain government information from government organs in accordance with Article 13 of these

Regulations should do so in written form (including digital and electronic forms). In the event that it is truly difficult for a requester to submit a request in written form, the requester may do so orally and the administrative organ accepting the request shall fill out the request for open government information on the requester's behalf.

Requests for open government information should include the following contents:

- 1) The name of the individual or organization making the request and the method of contact;
- 2) A description of the government information requested to be disclosed; and
- 3) Requirements as to the format in which the requested government information is to be supplied.

Article 21 Administrative organs shall reply to requests for open government information respectively in accordance with the following circumstances:

- 1) If the requested government information falls within the scope of disclosure, the requester should be informed of the methods and channels for obtaining that government information;
- 2) If the requested government information does not fall into the scope of disclosure, the requester should be informed that such information cannot be disclosed, together with an explanation of the reasons;
- 3) If, in accordance with the law, the requested government information should not be disclosed by that administrative organ or the requested government information does not exist, the requester should be informed of the situation and, if the organ that has the obligation to disclose that government information can be determined, the requester should be informed of the name of that administrative organ and the method to contact it;
- 4) If the content of the requested government information is not clear, the requester should be notified to amend and supplement the request.

Article 22. If the requested government information contains some contents that should not be disclosed but that can be handled through segregation, the administrative organ should provide the requester with that information content that may be disclosed.

Article 23. If an administrative organ believes that the requested government information involves commercial secrets or personal privacy the disclosure of which might infringe upon the lawful rights and interests of a third party, it should write to the third party to seek its opinion. If the third party does not agree to have the information disclosed, the information may not be disclosed. However, if the administrative organ believes that non-disclosure might have a major influence on the public interest, it should disclose the information and notify the third party in writing of the content of the government information it has decided to disclose and the reasons therefor.

Article 24. After receiving requests for open government information, administrative organs should reply to the requests on-the-spot to the extent possible.

If an on-the-spot reply is not possible, administrative organs should provide a reply within 15 business days from receiving a request. If an extension of the time limit for replying to a request is needed, the agreement of the responsible person in charge of the office for open government information work should be obtained and the requester notified. The maximum extension of the time limit for replying to a request may not exceed 15 business days.

If the requested government information involves the rights and interests of a third party, the time needed by administrative organs to seek the opinion of the third party shall not be counted against the time limit provided in Paragraph 2 of this Article.

Article 25. When citizens, legal persons or other organizations request administrative organs to provide government information about themselves such as taxes and fee payments, social security and medical care information, they should show valid identification certificates or certifying documents.

If citizens, legal persons or other organizations have evidence showing that the government information provided by an administrative organ concerning them is not recorded accurately, they have the right to request the administrative organ to correct the information. If the administrative organ does not have the authority to make the correction, the case should be transferred to the administrative organ that does have such authority, and the requester shall be so informed.

Article 26. When providing government information on request, administrative organs shall provide the information in the format requested by the requesters. If it is impossible to provide the information in the format requested by the requesters, administrative organs may provide the information through making arrangements for the requesters to read the relevant documents, providing photocopies or using other appropriate methods.

Article 27. When disclosing government information on request, administrative organs may not collect any fees, provided that they may collect cost-based fees for such costs as for retrieval, duplication and postage. Administrative organs may not provide government information as a compensated service through any organizations or individuals.

The standards for fees collected by administrative organs to cover such costs as for retrieval, duplication and postage shall be formulated by the department of the State Council in charge of pricing in consultation with the department of the State Council in charge of financial affairs.

Article 28. If a citizen requesting disclosure of government information truly has economic difficulties, the relevant fee may be reduced or exempted after an application for such reduction or exemption is submitted by the requester and verified and approved by the responsible person of the office for open government information work.

If citizens requesting disclosure of government information have trouble reading or obstacles to hearing and seeing, administrative organs should provide them with necessary assistance.

Chapter IV. Supervision and Safeguards

Article 29. People's governments at all levels should establish and perfect inspection, social appraisal and accountability systems for open government information work to carry out periodic inspection and appraisal of open government information work.

Article 30. The departments in charge of open government information work and the supervision organs shall be responsible for supervising and inspecting the implementation of open government information by administrative organs.

Article 31. Administrative organs at all levels should publish their annual reports on open government information work before March 31 each year.

Article 32. The annual report on open government information work should include the following contents:

- 1) Information on the administrative organ's proactive disclosure of government information;
- 2) Information on disclosing government information upon request and of requests for government information that are denied;
- 3) Information on fee collection and fee reductions and exemptions concerning open government information;
- 4) Information on applications for administrative reconsideration and filing of administrative lawsuits in respect of open government information;
- 5) The main problems existing in open government information work and the information on improvements thereof; and
- 6) Other items that need to be reported.

Article 33. If citizens, legal persons or other organizations believe an administrative organ has failed to fulfill, in accordance with the law, its obligations in respect of open government information, they may report it to the higher level administrative organ, the supervision organ or the department in charge of open government information. The organ that receives the report should investigate and handle it.

If citizens, legal persons or other organizations believe a concrete administrative action of an administrative organ in its open government information work has infringed their lawful rights and interests, they may, in accordance with the law, apply for administrative reconsideration or file an administrative lawsuit.

Article 34. If an administrative organ fails to establish and perfect, in violation of the provisions of these Regulations, a secrecy examination mechanism for releasing government information, the supervision organ or the administrative organ at the next higher level shall order that administrative organ to correct the situation. If the circumstances are serious, administrative penalties shall be imposed in accordance with the law on the principal responsible person(s) of that administrative organ.

Article 35. If an administrative organ violates the provisions of these Regulations and has engaged in any one of the following behaviors, the supervision organ or the administrative organ at the next higher level shall order such administrative organ to correct the situation. If the circumstances are serious, administrative penalties shall be imposed in accordance with the law on the person(s) directly in charge of the administrative organ, as well as other persons who are directly responsible. If the behavior constitutes a crime, criminal responsibility shall be pursued in accordance with the law:

- 1) Failure to fulfill, in accordance with the law, open government information obligations;
- 2) Failure to timely update the contents of government information that has been disclosed, the guide to open government information and the catalogue of open government information;
- 3) Collecting fees in violation of provisions;
- 4) Providing government information as a paid service through other organizations or individuals;
- 5) Disclosing government information that should not be disclosed; and
- 6) Other actions that violate the provisions of these Regulations.

Chapter V. Supplementary Regulations

Article 36. These Regulations shall apply to open government information activities of organizations that are authorized by laws or regulations to exercise the functions of managing public affairs.

Article 37. Disclosing information that is made or obtained in the course of providing public services by public enterprises and institutions that are closely related to the people's interests such as education, medical care, family planning, water supply, electricity supply, gas supply, heating, environmental protection and public transportation shall be done with reference to these Regulations. The specific measures shall be formulated by competent departments or offices of the State Council.

Article 38. These Regulations shall go into effect as of May 1, 2008.