

Opinions of the General Office of the State Council on Improving the Work of Disclosing Government Information Upon Request

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To the People's Governments of Each Province, Autonomous Region and Directly Administered Municipality, Ministries and Commissions under the State Council and Each Subordinate Agency:

With the implementation of the Regulations of the People's Republic of China on Open Government Information (hereafter the "Regulations") as of May 1, 2008, various regions and various departments have encountered some new situations in the course of accepting requests for open government information. The following Opinions are hereby offered in accordance with relevant laws, regulations, policies and practice.

I. Accurately grasp the essence of Article 13 of the Regulations

The Regulations were formulated 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. The principles of justice, fairness, and convenience to the people should be observed in disclosing government information.

For the aforesaid purposes, Article 9 of the Regulations sets forth four basic criteria for government information that should be proactively disclosed; Articles 10 and 11 provide 15 categories of government information to be emphasized for disclosure on their own initiative by the people's governments at the county level and above and their departments; Article 12 also provides eight categories of government information to be emphasized for disclosure on their own initiative by the people's governments at the township (town) level. The Regulations also establish a mechanism of disclosure upon request to satisfy the special needs of such matters as their own production, livelihood and scientific and technological research of citizens, legal persons or other organizations. In order to regulate the work of disclosure upon request, Article 14 of the Opinions on Various Issues of Implementing the Open Government Information Regulations of the People's Republic of China (Document *Guobanfa* [2008] No. 36) provides that: an administrative organ may decline to provide a requester government information that is not related to special needs in respect of matters such as the requester's own production, livelihood and scientific and technological research. If disclosure of government information that is requested by a requester might endanger state security, public security, economic security and social stability, according to stipulations such information should not be disclosed and

the requester may be notified that such information does not fall within the scope of open government information.

II. Accurately grasp the suitable categorization of government information

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

Government information provided by an administrative organ to a requester should be official, accurate and complete and can be officially used by the requester in production, livelihood and scientific and technological research, as well as in lawsuits or administrative lawsuits as documentary evidence. Therefore, internal management information made or obtained by administrative organs during their day-to-day work or in-process information¹ under discussion, research or examination in general is not government information that should be disclosed as referred to in the Regulations.

Government information to be provided to a requester by an administrative organ should be already in existence, and generally not require administrative organs to consolidate, process or reformulate the information (other than handling through differentiation²). Based on the spirit of the Regulations, an administrative organ is generally not obligated to consolidate, process or reformulate government information, or collect information from other administrative organs, citizens, legal persons or other organizations for a requester.

III. Clarifying the principle of “one request for one matter”

In practice, one request may sometimes ask for the disclosure of government information made or kept by several administrative organs and some requests may involve the disclosure of information of many categories and items, while the organ accepting the request is not able to provide government information as requested or determine whether that information exists or which administrative organ should be responsible for disclosing it, all of which impacts the processing time. In order to improve efficiency and make it convenient for the requester to obtain the requested information as soon as possible, the organ accepting the request may, if a request involves the disclosure of a relatively large number of items, require the requester to adjust its request based on the principle of “one request for one matter,” that is, one request for open government information should only address one item of government information.

At the same time, when the requested government information is broken into too many pieces, that is, the requester has submitted to one administrative organ several requests for open government information with similar contents and the administrative organ has to reply to such requests by breaking out the existing information, the organ accepting the request may require the requestor to properly sort out and consolidate the requests.

¹ 过程性信息

² 作区分处理, a term used to mean redaction or the process of partial disclosure.

IV. Properly handle requests of a research project type

When a request asks an administrative organ to provide a large scope of information or data needed for a research project, the administrative organ may require the requester to adjust its request method, as that is different from the general meaning of requests as provided in the Regulations and goes beyond, to a certain extent, the original legislative intent of establishing the disclosure upon request mechanism.

If the government information needed for a research project has already been disclosed on the government's own initiative, the requester may be informed to search for such information on its own through such channels as government websites, government gazettes, departmental statistics yearbook, relevant publications and archives and libraries.

If it is truly difficult to obtain government information through the channels of disclosure on the government's own initiative, the requester may file requests respectively to relevant administrative organs under the principle of "one request for one matter."

V. Strengthen the dynamism of proactive disclosure of government information

Disclosure on the government's own initiative and disclosure upon request of government information are the two basic methods for disclosure of Chinese government information as provided in the Regulations, supplementing and complementing each other. Disclosure of government information on the government's own initiative in a comprehensive, timely and accurate manner may significantly reduce the number of disclosure requests. Each region and each department should strengthen the dynamism of their work of disclosing government information on their own initiative and enhance their initiative, authoritativeness and effectiveness. All the matters that should be disclosed and can be disclosed as provided in the Regulations should be disclosed in a timely, comprehensive and proactive manner. Each department shall prepare a detailed catalogue and scope of open government information for its own institution and expedite offering guiding opinions to clarify what information involving its own institution can be disclosed and what can be partially disclosed, and provide it to each unit within its own institution for compliance.

In the process of accepting a request to disclose government information that needs or is allowed to be extensively known by the general public, an administrative organ should, at the same time it replies to such requester, proactively disclose that government information on the government website or through other channels, in order to avoid, as much as possible, the disclosure of public[-interest type]³ government information to only one particular requestor and to reduce repeated requests for the same government information so as to save administrative costs and improve work efficiency.

³ 公共性

VI. Improve the service of disclosing government information upon request

Each region and each department shall further broaden the channels for accepting requests and provide services to make it convenient for requesters to request the disclosure of information. Procedures for accepting, examining, handling and replying to requests shall be further perfected and relevant records should be kept for reference. If the matter requested does not fall within the category of open government information work or if they are not able to provide the government information according to the request, all regions and departments should communicate with the requester on their own initiative and try to obtain his or her understanding. Requests shall be replied to in accordance with the law and in a strictly professional and prudent manner.

VII. Strengthen and improve examination for secrecy and coordination and consultation

It is necessary to further improve the secrecy examination mechanism for open government information, regulate the examination procedures and clarify the examination responsibilities. If a request presents complicated situations or may involve state security, public security, economic security and social stability, coordination and consultation between relevant departments should be strengthened and opinions shall be offered based relevant laws and regulations and a comprehensive analysis as to whether such request is valid, whether the information should be disclosed and the possible impact after the disclosure.

Each region and each department shall, in the course of implementation, make active exploration, accumulate experience and perfect rules and systems in order to actively and steadily promote open government information work.