

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

(Adopted by the State Council on April 5, 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 agencies 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 agencies 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 agencies.

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

- 1) To undertake specific open government information matters for that administrative agency;
- 2) To maintain and update government information disclosed by that administrative agency;
- 3) To organize for that administrative agency 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 agency.

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

Article 6. Administrative agencies should disclose government information promptly and accurately. When administrative agencies 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 agencies should establish and perfect a coordination mechanism for releasing government information. When releasing government information that involves other administrative agencies, an administrative agency should communicate and confirm with the administrative agencies concerned to ensure the government information released is accurate and consistent.

If the government information to be released by administrative agencies 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 agencies may not endanger state security, public security, economic security and social stability.

Chapter II. The Scope of Disclosure

Article 9. Administrative agencies should disclose on their own initiative 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 agency; and

- 4) Other information that should be disclosed on the administrative agency's own initiative 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 on their own initiative 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 regulatory 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 on their own initiative 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 agencies on their own initiative 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 and technological research, also file requests 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 agencies 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 agencies 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 agency 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 agency.

Administrative agencies may not disclose government information that involves state secrets, commercial secrets or individual privacy. However, government information involving commercial secrets or individual privacy may be disclosed by administrative agencies with the consent of the rightholder(s) or if administrative agencies 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 on administrative agencies' own initiative should be disclosed by means of government gazettes, government websites, 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 agencies 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 agencies should provide the state archives and public libraries with government information disclosed on their own initiative in a timely manner.

Article 17. Administrative agencies shall be responsible for disclosing government information that they have made. Administrative agencies 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 on administrative agencies' own initiative should be disclosed within 20 business days from the date the information is formed 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 agencies 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 should file requests with

government agencies to obtain government information in accordance with Article 13 of these Regulations 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 agency 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 agencies 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 agency or the requested government information does not exist, the requester should be informed of the situation and, if the agency that has the obligation to disclose that government information can be determined, the requester should be informed of the name of that administrative agency 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 differentiation, the administrative agency should provide the requester with that information content that may be disclosed.

Article 23. If an administrative agency believes that the requested government information involves commercial secrets or individual 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 agency 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 they have decided to disclose and the reasons therefor.

Article 24. After receiving requests for open government information,

administrative agencies should reply to the requests on-the-spot to the extent possible.

If an on-the-spot reply is not possible, administrative agencies 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 agencies 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 agencies 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 agency concerning them is not recorded accurately, they have the right to request the administrative agency to correct the information. If the administrative agency does not have the authority to make the correction, the case should be transferred to the administrative agency that does have such authority, and the requester shall be so informed.

Article 26. When providing government information on request, administrative agencies 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 agencies 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 agencies may not collect any fees except they may collect cost-based fees for the cost of searching, photocopying, postage and the like. Administrative agencies may not provide government information as a compensated service through any organizations or individuals.

The standards for fees collected by administrative agencies to cover such costs as for searching, photocopying and postage shall be made 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 agencies should provide them with necessary assistance.

Chapter VI. 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 agencies shall be responsible for supervising and inspecting the implementation of open government information by administrative agencies.

Article 31. Administrative agencies 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 disclosing government information on the administrative agency's own initiative;
- 2) Information on disclosing government information public 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 agency 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 agency, the supervision agency or the department in charge of open government information. The agency that receives the report should investigate and handle it.

If citizens, legal persons or other organizations believe a specific administrative action of an administrative agency 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 agency fails to establish and perfect, in violation of the provisions of these Regulations, a secrecy examination mechanism for releasing government information, the supervision agency or the administrative agency at the next higher level shall order that administrative agency 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 agency.

Article 35. If an administrative agency violates the provisions of these Regulations and has engaged in any one of the following behaviors, the supervision agency or the administrative agency at the next higher level shall order that administrative agency to correct the situation. If the circumstances are serious, administrative penalties shall be imposed in accordance with the law on person(s) directly in charge of the administrative agency, 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.