

July 2023

# Public Information Request Process Audit

**ATP Internal Audit Team**

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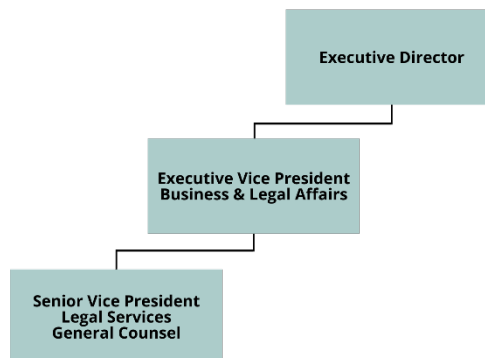


## Background

As a local government corporation, the Austin Transit Partnership (ATP) must comply with Texas state law requirements for governmental bodies, including the Texas Public Information Act (PIA). The Public Information Act provides a way for residents to request government records. It guides governmental bodies on what information must be released or may be withheld so that the public has more insight into how governments operate and how public funds are spent.

The success of Project Connect relies heavily on community engagement and public buy-in. The ATP public information program has a large role in project transparency and encouraging community engagement. Therefore, it is important to evaluate the effectiveness of the program now as ATP is still establishing its processes.

The ATP Board designated General Counsel as the Public Information Coordinator via resolution in April 2021.<sup>1</sup> The General Counsel assigned the Legal Services Coordinator the responsibility of ensuring compliance with the Public Information Act. ATP has received 58 PIRs since it began operations on January 1, 2021.<sup>2</sup>



**SOURCE:** ATP Organizational Chart for Legal Services, April 2023.

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<sup>1</sup> Resolution ATP-2021-014, [https://www.atptx.org/docs/librariesprovider3/board/2021-atp-board-docs/atp-2021-014--desig-public-info-coordinator.pdf?sfvrsn=eba79d3b\\_2](https://www.atptx.org/docs/librariesprovider3/board/2021-atp-board-docs/atp-2021-014--desig-public-info-coordinator.pdf?sfvrsn=eba79d3b_2).

<sup>2</sup> Our testing included the 39 PIRs received between January 1, 2021 and December 31, 2022. As of May 3, 2023, ATP has received 19 PIRs in 2023. These PIRs are outside of the scope of our testing.



## Results

Since its inception in 2021, ATP has taken steps to establish an effective and transparent Public Information Request (PIR) program to comply with the Public Information Act. We found that ATP promptly responds to PIRs, recently implemented the GovQA software to improve tracking of PIR activities, and notifies the public of their rights related to PIRs at the ATP office and on the ATP website. We identified these and other areas where ATP has excelled in setting up the PIR program and two opportunities to continue improving the program.

### *Standard Operating Procedures for PIRs*

ATP adheres to standard operating procedures guiding how it processes PIRs. These procedures, approved in April 2023, establish how ATP receives, refers, and responds to PIRs in alignment with the Public Information Act. These procedures also outline the roles and responsibilities of the PIR team, detail the steps ATP takes to request an Attorney General exception to withhold information, and provide guidance on when and how ATP can charge fees to recover costs incurred when responding to PIRs.

### *Promptness of Response*

The Public Information Act requires that ATP "promptly" produce information in response to requests. Per the Texas Public Information Handbook, "promptly" is defined as ten days after receipt of the PIR. The Public Information Act also establishes expected timelines for other related communications and activities, like letters to requestors asking for clarification about what they are requesting or sending a cost estimate to a requestor. We found that ATP responded promptly to PIRs and met the required timelines for a prompt response for all 39 PIRs reviewed in our scope period.

*Per the Texas Public Information Handbook, "promptly" is defined as ten days after receipt of the public information request.*

To assist ATP with prompt response, ATP has many templates for standard communications with requestors and other involved parties. The templates include requests for clarification, cost estimates, requests for Attorney General opinions, and initial and final response letters to requestors.

### *Requesting Attorney General Opinions*

The Public Information Act allows ATP to request a decision from the Attorney General to withhold information from public disclosure. ATP must submit the request by the 10th business day after receiving the request and provide the Attorney General with all the required backup documentation no later than the 15th business day after receiving the request. ATP staff must also provide the requestor with a written statement that they wish to withhold certain information and have requested an opinion from the Attorney General.

We found that ATP properly follows this process. ATP requested an Attorney General opinion for six of the 39 PIRs in our scope.

### *Referrals to Project Connect Partners*

ATP works with the Project Connect partners – the City of Austin and the Capital Metropolitan Transit Authority (CapMetro) – when a request is received for information maintained by one of the partner agencies. In two of the 39 requests

reviewed, the requestor asked for information held by CapMetro. In both instances, ATP referred the requestor to the CapMetro PIR team and alerted CapMetro staff about the incoming request.

#### *Implementation of PIR Software*

In 2021 ATP created an Excel spreadsheet to track information about PIRs received and ATP actions to process each request. This tracker was set up to collect the necessary data to comply with the Public Information Act. Each request has a unique identifier (i.e., ATPPIRMMDDYY-###), and the spreadsheet includes columns tracking applicable dates, requester information, details of the request, and other pertinent information.

In March 2023, ATP implemented the GovQA Public Records Software to track PIRs. GovQA is a public records management system created for governmental bodies to assist with processing public records requests. The system tracks the workflows of processing requests and allows for more efficient internal collaboration, record gathering, and communication with requestors. ATP also purchased modules to redact responsive information and generate cost estimates and invoices for requestors.

*GovQA, a public records management system, tracks the workflows involved with processing requests, and allows for more efficient internal collaboration, record gathering, and communication with requestors.*

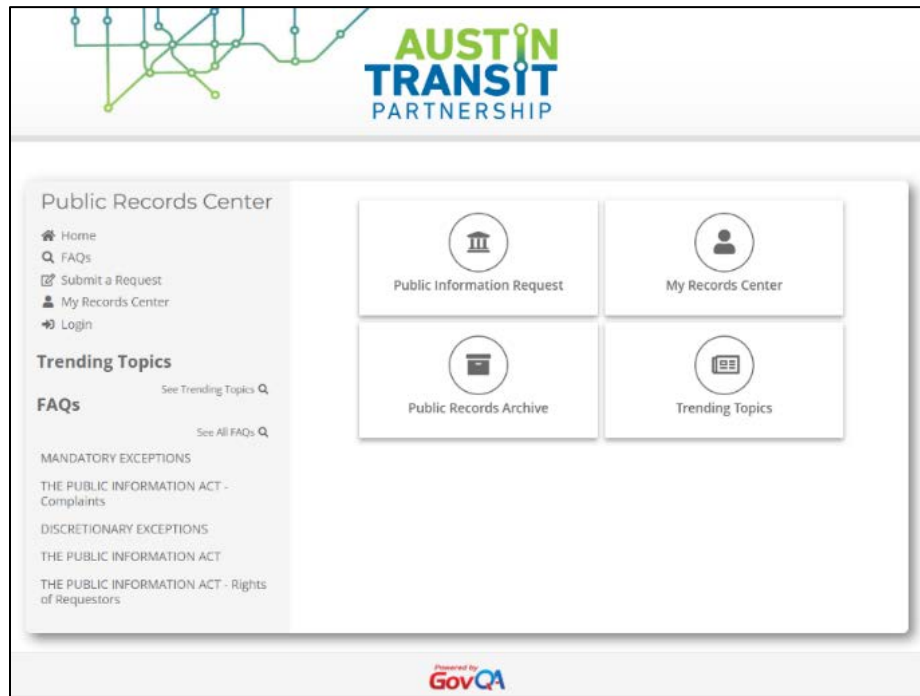
The PIR team administrators are assigned as “power users” in the GovQA system. The PIR team has assigned ATP employees who may have information responsive to a request as “end users.”

Further, the GovQA system has data and reporting capabilities that will allow the PIR team to report on PIR activities across ATP easily. Since GovQA was implemented, the PIR Coordinator set up a recurring weekly report generated automatically from the GovQA system that shares details on active requests with the PIR team and ATP leadership. The reporting capabilities will be helpful to the PIR team as they work with the budget department to develop key performance indicators for the FY2024 budget.

#### *Public Notification of the PIR Program*

The Public Information Act requires ATP to display a sign provided by the Attorney General that contains basic information on the rights of a requestor, the responsibilities of the governmental body, and the procedures for inspecting or obtaining a copy of public information. The sign must be displayed in ATP offices in one or more places that are visible to members of the public and employees of ATP who are involved in receiving and responding to requests.

ATP displays the Attorney General sign on the front desk in the lobby of the ATP offices, in a location that is visible to public visitors and employees of ATP.



SOURCE: ATP Website screenshot, April 2023.

The ATP website has a page dedicated to PIRs that includes a form requestors can download and complete to request information. The website contains information about the potential for ATP to request a ruling from the Attorney General to withhold information and the potential charges for requested information.

## Areas for Improvement

We identified two areas where ATP could improve to maintain consistent internal operations of the PIR program and enhance communication and equitable service to public members.

*ATP should identify a staff member to serve as the backup to the PIR Coordinator.*

ATP currently has one PIR Coordinator responsible for receipt, referral, and response for all PIRs. The PIR Coordinator is also the only employee who has attended the Texas Attorney General-approved training on the Public Information Act.

Only having one staff member responsible for and trained on PIR activities leaves ATP at risk of non-compliance with the Public Information Act. If the PIR Coordinator is unavailable for any reason, such as a vacation or extended leave of absence, or if the PIR Coordinator should leave the organization, ATP may not be able to meet the strict timelines outlined in the Public Information Act compromising ATP's ability to respond to a PIR on time.

To mitigate these risks, ATP should identify and appoint a second employee as a backup to the PIR Coordinator. This employee should attend the Attorney General-approved Public Information Act within 90 days of appointment. The

backup should also be added to the GovQA system as a Power user, with the same access as the current PIR Coordinator.

*ATP should finalize draft slides and provide the PIR training to all ATP employees and staff with responsibilities related to PIRs.*

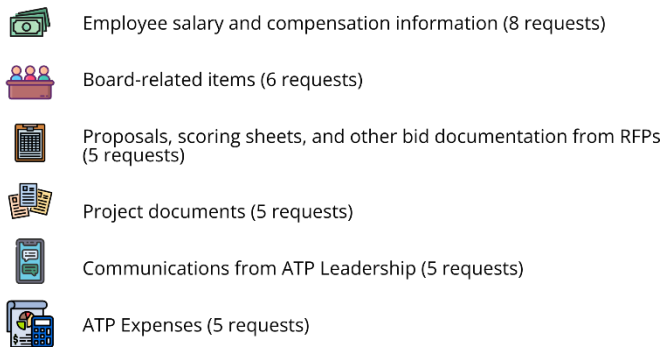
The Public Information Act does not require ATP to train employees on the Act's basic requirements. However, due to the public scrutiny of Project Connect and the sensitive nature of ATP's work, the PIR team developed a draft training for all ATP employees on the basic requirements of the Public Information Act, along with guidance on staff's roles and responsibilities related to PIRs. While this training is not required, it is good practice to inform employees about public information and how to assist the PIR team with responding to requests.

*ATP should consider opportunities to streamline responses to commonly requested types of information.*

The PIR team created templates for the various letters required for PIRs, such as requests for clarification or cost estimates. The templates help the PIR team communicate efficiently, which is critical to complying with the Public Information Act. Using templates also ensures that contact with requestors is consistent. Furthermore, ensuring equity in communication and treatment of requestors is critical to accomplishing the goals of the PIR program to promote transparency and public trust, and to encourage engagement from the Austin community.

as shown in the graphic below.

## 6 Most Commonly Requested Information Types:



**SOURCE:** Auditor analysis of commonly requested information types from 39 requests received by ATP between January 1, 2021 and December 31, 2022; analysis completed April 2023.

The most commonly requested information was for employee salary and compensation, which requires the PIR team to track down the responsive information from Human Resources staff. Streamlining the retrieval of this information could give the PIR team immediate access to the needed information without requiring additional coordination with Human Resources staff.

Another commonly requested type of information was emails and text messages between ATP leadership and Board Members. These requests often result in a large amount of responsive information. They can appear to the outside recipient to be disorganized and duplicative because ATP's response must include multiple copies of the same emails and text messages from different parties or long email chains with multiple parties. Providing additional guidance to requestors on what they should expect to receive in response to submitted PIRs may help the public better understand the apparent duplication in records provided in response to requests of this nature.

*The PIR team should calculate the estimated costs of responding to PIRs and charge the associated fees in accordance with ATP's policy.*

*The Public Information Act allows ATP to recover costs incurred as a result of responding to PIRs. The Public Information Act also allows organizations to waive fees if releasing the requested information is in the "public interest."*

Another critical component to ensuring equity in PIR activities is ensuring ATP considers and charges fees equitably and consistently across all requests. The Public Information Act allows ATP to recover costs incurred due to responding to PIRs. While cost recovery for PIRs is not intended to serve as a revenue-generating tool for ATP, the provision in the Public Information Act that allows organizations to recover costs associated with PIRs specifically cites organizations that can justify this cost recovery for particularly burdensome requests. The Public Information Act also allows organizations to waive fees if releasing the requested information is in the "public interest."

In the PIR standard operating procedures approved in April 2023, ATP defined public interest as a request for documents related to a particular subject matter. Therefore, requests without a subject matter, such as requests for "all emails" or "all documents" during a specific period or without a narrow scope, are not considered in the public interest. We noted that ATP only charged a fee for two of the 39 PIRs received between January 1, 2021 and December 31, 2022 and PIR files did not clearly document ATP's justifications for charging or waiving fees. Both requests had broad scopes resulting in large amounts of responsive information which appears to support the assessed fees. When charging fees, the PIR team should clearly communicate to the requester the justification for the fee, particularly when a PIR contains requests for multiple types of information.

ATP currently only accepts payment via wire transfer, ACH, or check and does not plan to accept payments via debit or credit card due to associated administrative fees and because ATP will have few transactions like these. The PIR team acknowledged this issue and its impact on determining if fees should be waived.



## Recommendations

1. **To maintain consistent internal operations of the PIR program, we recommend the Legal Services Team:**
  - a. Identify a staff member to serve as the backup to the PIR Coordinator.
  - b. Finalize and provide the PIR training to ATP employees and contractors. The training should be recorded and shared in new employee onboarding.
  - c. Work with Human Resources to ensure an employee salaries spreadsheet is routinely updated and readily accessible to the PIR team.
  
2. **To ensure clear communication and equitable service to members of the public, we recommend the Legal Services Team:**
  - a. Develop template language to more fully explain to requestors the amount of information provided and the format for broad requests, such as those for emails and text messages.
  - b. Calculate estimated fees for requests and ensure decisions to charge or waive fees are equitably and consistently applied across all PIRs.





# Management Response

**1. To maintain consistent internal operations of the PIR program, we recommend the Legal Services Team:**

- a. Identify a staff member to serve as the backup to the PIR Coordinator.

**Management Response:** *Agree*

**Proposed Implementation Plan:** *The Legal Services Department will work with the Chief of Staff to identify personnel who can serve as the back-up to the PIR Coordinator as needed.*

**Proposed Implementation Date:** *December 2023*

- b. Finalize and provide the PIR training to ATP employees and contractors. The training should be recorded and shared with new employees during onboarding.

**Management Response:** *Agree*

**Proposed Implementation Plan:** *Legal services staff will coordinate and conduct training for employees and contractors. The Business Services team members are working together to incorporate this training in ATP's orientation and onboarding program.*

**Proposed Implementation Date:** *September 2023*

- c. Work with Human Resources to ensure an employee salaries spreadsheet is routinely updated and readily accessible to the PIR team.

**Management Response:** *Agree*

**Proposed Implementation Plan:** *ATP now has Compensation information available to us through ATP's Human Capital Management/Payroll system using Oracle. These reports can be pulled in response to future requests for this information and will contain the most up-to-date information regarding ATP employee's salaries.*

**Proposed Implementation Date:** *May 2023*

**2. To ensure clear communication and equitable service to members of the public, we recommend the Legal Services Team:**

- a. Develop template language for a letter to requestors explaining the amount of information provided and the expected format for broad requests for emails and text messages requiring duplication of records across multiple responders.

**Management Response:** *Agree*

**Proposed Implementation Plan:** *ATP Legal Services staff will update the public information request cost estimate letter template with language to address the recommendation.*

**Proposed Implementation Date:** *June 2023*

- b. Calculate estimated fees for requests and ensure decisions to charge or waive fees are equitably and consistently applied across all PIRs requests.

**Management Response:** *Agree*

**Proposed Implementation Plan:** *ATP will provide a waiver of the Overhead Fee for media requests. This update will be reflected in the PIR Standard Operating Procedures.*

**Proposed Implementation Date:** *June 2023*



## Objective

Do current processes ensure ATP is following open records laws and ensure ATP is prepared to appropriately respond to public information requests (PIRs) in accordance with state law?



## Scope

The audit scope included Public Information Activities from January 2021 to April 2023.



## Methodology

To complete this audit, we performed the following steps:

- Interviewed ATP staff,
- Verified all emails sent or received by the [PIR@atptx.org](mailto:PIR@atptx.org) email address between July 1, 2022 to September 30, 2022 were recorded in the ATP PIR tracking spreadsheet,
- Verified the completeness and accuracy of PIR data recorded for PIRs received by ATP through a comparison of PIR requests received via the PIR email to the ATP PIR tracking spreadsheet,
- Analyzed the PIRs received by ATP between January 1, 2021 to December 31, 2022 to identify commonly requested information types,
- Selected a judgmental sample of 12 PIR requests from 39 requests received by ATP between January 1, 2021 to December 31, 2022 and verified that ATP received and responded to requests in compliance with the Public Information Act,
- Evaluated information technology and fraud risks related to PIR activities, and
- Evaluated internal controls related to ATP's: control environment, risk assessment and control activities, information and communication, and monitoring.



## Standards

*This audit was conducted in accordance with the standards promulgated by the Institute of Internal Auditors (Standards). These Standards encompass such matters as independence, objectivity, proficiency, due professional care, the scope and performance of work activities, and management of the internal auditing function. We believe that our work provides a reasonable basis for the reported issues, conclusions, and recommendations.*

For questions about this project or the use of this report, please contact us at [ATP\\_audit@atptx.org](mailto:ATP_audit@atptx.org).