

Guangzhou Municipal Provisions on Open Government Information

(Decree No. 8 of the Guangzhou Municipal People's Government
dated November 6, 2002)

Chapter 1 General Principles

Article 1. These Provisions are formulated in accordance with the provisions of relevant laws and regulations, combined with the actual circumstances of this Municipality, in order to protect the right to know of individuals and organizations, standardize the making public of government information, increase the transparency of administrative activities, and supervise government agencies in the exercise of their powers in accordance with the law.

Article 2. "Government information" as referred to in these Provisions means information made, obtained or possessed in the course of managing or providing public services by all levels of people's government and its functional departments and organizations that carry out administrative powers in accordance with law.

Article 3. These Provisions shall be applied to making government information public within the Guangzhou municipal administrative region.

Article 4. All levels of people's government and its functional departments and organizations that carry out administrative powers in accordance with law are "persons with the obligation to make public." They should carry out in accordance with the law their obligation to make public government information.

Individuals and organizations are "persons with the right of access." They enjoy the right to obtain government information in accordance with the law.

Article 5. The agencies in charge of openness in government affairs at all levels of the people's government shall be responsible to organize the implementation of these Provisions.

The legal affairs agencies and administrative supervisory departments at all levels of people's government shall, in accordance with their respective functions, supervise the implementation of these Provisions.

Article 6. As a general principle, government information shall be made public, and information that is not made public shall be the exception.

Making government information public should follow the principles of lawfulness, timeliness, authenticity and impartiality.

Article 7. When persons with the right of access exercise their right to obtain government information, they may not infringe on others' privacy, commercial secrets, state secrets or other social and public interests.

No individual or organization may unlawfully obstruct or limit the activities of making government information public by persons with the obligation to make public, or the right of persons with the right of access to obtain government information.

Article 8. When persons with the obligation to make public provide government information in accordance with these Provisions, they may not charge fees, except as otherwise stipulated by law or regulation or these Provisions.

The expenses of making public government information by all levels of the people's government should be entered into the annual budget, to protect the normal operation of activities to make government information public.

Chapter II. The Content of "Making Public"

Article 9. Persons with the obligation to make public should on their own initiative make public to society the following governance-related government information:

- (a) The strategy, development plan, work targets and circumstances of completion relating to the social and economic development of this administrative region;
- (b) Major decisions on matters affecting the overall situation;
- (c) Rules and normative documents as well as other policy measures;
- (d) The establishment, functions and basis for establishment of government agencies;
- (e) The approval procedures of government administration;
- (f) The resolution of major or unusual events in the locality;
- (g) The handling of matters to which the government had committed and the situation regarding their completion.

Persons with the obligation to make public should on their own initiative make public to society the following government information relating to financial authority:

- (h) The annual government financial budget report adopted by the people's congress at the same level and the situation of its implementation;
- (i) The situation of the allocation and utilization of major items of expense of purchase through bidding of major materials assets, and of bidding for major capital construction projects; and

- (j) The situation of government-invested social public welfare institutions.

Persons with the obligation to make public should on their own initiative make public to society the following government information relating to authority over personnel:

- (k) Resumes, job responsibilities and adjustments in government leadership members;
- (l) The conditions, procedures and results of employment, selection and appointment, and choosing the best through public appraisal of public servants; and
- (m) The situation of personnel re-allocation following government re-structuring.

Article 10. Persons with the obligation to make public should on their own initiative make public to society the following government information:

- (a) The basis for administrative action;
- (b) The procedures for administrative action; and
- (c) The limits on administrative action; and
- (d) Channels for remedy and time limits therefore.

Article 11. When making a decision on the handling of an administrative matter, persons with the obligation to make public should on their own initiative notify the person concerned of the following government information:

- (a) The decision-making department;
- (b) The procedures for decision-making;
- (c) The basis and grounds for making the decision;
- (d) The resulting decision; and
- (e) Channels for remedy and time limits therefor.

Article 12. Persons with the obligation to make public should make the following internal government information open on an internal basis:

- (a) The situation regarding honesty and self-discipline of leading members;
- (b) Internal financial income and expenses;
- (c) The results of internal audits;
- (d) The management situation for public servants; and
- (e) Other internal government information that should be made open.

Article 13. Persons with the right of access have the right to request persons with the obligation to make public to make public other government information not listed in Articles 9 and 10. Except for information that is prohibited from being made public by law, regulation or these Provisions, persons with the obligation to make public should make the information public in accordance with the request to the persons with the right of

access.

A person with the right of access has the right to request persons with the obligation to make public to provide access to government information in their possession relating to that person himself. If the person with the right of access discovers any errors or inaccuracies in that information, that person has the right to request the persons with the obligation to make public to correct the information.

Article 14. The following government information shall not be made public:

- (a) Private information about individuals;
- (b) Commercial secrets;
- (c) State secrets;
- (d) Government information in the course of deliberation and discussion other than as provided in Article 19; and
- (e) Other government information prohibited from being made public by law or regulation.

Chapter III. Methods of Making Public

Article 15. One or more of the following methods should be adopted in conformance with the special characteristics of that information in respect of government information that in accordance with Articles 9 and 10 of these Provisions is to be made public:

- (a) Establish a unified government comprehensive gateway website;
- (b) Periodically publish a specialized magazine of government information or use newspapers and periodicals, broadcasts, television and other forms of media to release government information;
- (c) Establish a fixed open government information office, bulletin board, electronic screen or electronic "touch screen;"
- (d) Periodically call government news conferences;
- (e) Establish an open government information hotline; and
- (f) Other forms to facilitate public understanding.

Article 16. The following methods shall be carried out to make public government information according to Article 11 of these Provisions:

(a) In advance of the decision, the enforcement identification should be produced for the person concerned and that person should be notified in advance, either in written or oral form, of his relevant rights and obligations, the procedures to be used in reaching a decision and the legal basis;

(b) After the decision is made, the enforcement document is to be made public. The enforcement document should set forth the contents stipulated by Article 11.

Article 17. A method appropriate to the actual circumstances of the person with the obligation to make public should be used when making public internal government information in accordance with Article 12 of these Provisions.

Article 18. Methods that conform to the special nature of the information, such as looking the information up, listening to tape recordings, watching video tapes and electronic reading, shall be used in the case of making public government information in accordance with Article 13 of these Provisions.

Article 19. In the case of matters affecting major interests of individuals or organizations, or that have a major social influence, before the formal decision is made, a system of advance disclosure shall be implemented. The decision-making department should make public to society the proposed decision and justification, make adjustments after sufficiently seeking opinions and then make the final decision.

Chapter IV Procedures for Making Public

Article 20. If persons with the obligation to make public do not carry out the obligation to make public on their own initiative in accordance with Articles 9 and 10 of these Provisions, a person with the right of access may request, either in writing or using the government comprehensive gateway website, the person with the obligation to make public to carry out his obligation, and the person with the obligation to make public should, within 15 business days of receiving the request, make the information public to society. If the information that the person with the right of access requests to be made public has already been made public, the person with the obligation to make public should show the requesting party where the information can be obtained.

If persons with the obligation to make public do not carry out their obligation to make public on their own initiative in accordance with Article 11 of these Provisions, the person concerned may at any time request the person with the obligation to make public to carry out its obligation, and the person with the obligation to make public should immediately make public the information to the person concerned.

Article 21. A person with the right of access who requests that information be made public in accordance with Article 13 of these Provisions may do so in writing or orally. In the event of an oral request, the person with the obligation to make public should make a record on the spot. The request should contain the following information:

- (a) Basic information about the requester including the name of the individual or organization, address, proof of identity, contact method, etc.;
- (b) Concrete information requested to be made public;
- (c) Signature or seal of the requester; and
- (d) The time of the request.

Article 22. Upon receiving the request, the person with the obligation to make public should immediately acknowledge receipt of the request for handling and, moreover, decide within 15 business days of receiving the request whether to make the information public and, at the same time, issue and deliver to the person with the right of access a written decision on the issue of making the information public.

Where there are objective reasons related to the handling of the information materials or other legitimate reasons, the person with the obligation to make public may extend the period for deciding whether to make the information public to 30 business days and should, moreover, immediately notify in writing the person with the right of access about the extension and the reason therefor.

Once the person with the obligation to make public decides to make information public, he should set forth clearly in the written decision the time, place and method of making public and the fee therefor. If he decides to make only a portion of the information public or to not make any of it public, he should clearly state the reason therefor in the written decision on the issue of making the information public.

The time period within which information should be made public should not exceed 15 business days from the day the person with the obligation to make public makes the decision.

Article 23. If the government information requested to be made public contains some prohibited or restricted access information, but this can be handled through differentiation, the part that can be made public may be made public to the requester.

If the indication to a requester by the person with the obligation to make public as to whether certain government information exists might result in government information that should not be made public actually being made public, the person with the obligation to make public has the right not to confirm whether that information exists.

Article 24. If no decision has been made as to whether government information is within the scope of state secrets, those responsible for the information shall give concrete opinions to their agency. After the leading personnel of that unit evaluate and approve the opinion, the making public of the information may temporarily be delayed or postponed in accordance with the time limits and procedures provided in laws and regulations on preserving secrecy.

The temporary postponement of making government information public shall, after the nature or degree of secrecy of such information has been determined, be handled respectively in accordance with Article 9, 10, 13 or 14 of these Provisions.

Article 25. When a person with the right of access looks up the government information requested to be made public, he has the right to obtain evidence of such information or related documents and copies of materials.

A person with the obligation to make public that provides government information in accordance with these Provisions may only collect such cost-based fees as are determined in advance based on standards for searching, making copies, etc. Such person may not collect any other fees. The standards for collecting these cost-based fees shall be ratified by the pricing departments.

Persons with the right of access that have especially difficult economic circumstances may be exempted from or charged reduced fees.

Article 26. If the person with the obligation to make public cannot, due to reasons of *force majeure* or other legal particulars, make a determination as to whether to make information public within the stipulated time period or the time period is suspended after the requested materials have been made public to the requester, the person with the obligation to make public should immediately notify the requester in writing of the reasons for the suspension.

The calculation of the time period shall resume from the day on which the reason for the suspension is eliminated.

Chapter V Supervision and Remedies

Article 27. The agencies in charge of openness in government affairs of the municipal people's government shall supervise actions in respect of making government information public principally using the following methods:

(a) Periodically or from time to time investigate the situation of making public government information by the persons with the obligation to make public;

(b) Hold evaluation activities within each person with the obligation to make public, and listen to the opinions of the work personnel in respect of the work of making public government information;

(c) Broadly listen to the views of all circles within society through such means as holding democratic discussion day activities; and

(d) Establish hotlines and mailboxes for filing complaints about making government information public, immediately investigate and handle illegal or improper behavior and report to those filing complaints about the handling of the matter.

Article 28. The municipal people's government legal affairs agencies shall be responsible for periodically carrying out appraisal and assessment of the implementation of making government information public by the municipal people's government functional departments and by every district and county-level people's government. The concrete standards for appraisal shall be separately stipulated.

The legal affairs agencies of the district and county-level municipal people's government shall be responsible for carrying out appraisal and assessment of the implementation of making government information public by the functional departments of the government at their level and by the prefectural agencies of the government and town-level governments.

Article 29. Persons with the right of access that do not agree with a decision as to whether to make government information public, make it public in part or not make it public have the right to request administrative reconsideration, litigation or compensation in accordance with the law.

Chapter VI Legal Liability

Article 30. The agencies in charge of openness in government affairs at each level of people's government have the right to order a person with the obligation to make public that violates the relevant laws and regulations or these Provisions to correct the behavior within a time period and, if the behavior is not corrected within that time period, circulate a notice of criticism and, moreover, pursue the administrative liability of the person(s) in charge.

Article 31. The departments concerned shall in accordance with the law impose administrative penalties and, if the circumstances are so serious as to constitute a crime, pursue the criminal liability of directly responsible personnel who engage in one of the following behaviors:

- (a) Violate stipulations of these Provisions concerning the content, methods, or time periods for making public;
- (b) Violate the provisions of laws and regulations on preserving secrecy;
- (c) Do not truly make public government information; or
- (d) Other behavior that violates these Provisions.

Article 32. Persons with the obligation to make public that conceal or provide false government information, or that reveal commercial secrets or private individual information and thereby cause economic injury to persons with the right of access, should compensate the injured party in accordance with the law.

Chapter VII Supplementary Provisions

Article 33. Foreigners, stateless persons and foreign organizations within the administrative region of Guangzhou Municipality that request government information to be made public have the same rights and obligations as citizens and organizations of the People's Republic of China.

Citizens and organizations of foreign countries and regions that impose restrictions

on the right of Chinese citizens or organizations to have government information made public shall be treated reciprocally in respect of their right to have government information made public by the Chinese government.

Article 34. These Provisions shall go into effect on January 1, 2003. The July 9, 1992 Measures for Trial Implementation of Guangzhou Municipal People's Government on Opening Government Affairs Activities shall simultaneously be abolished.