



THE TEXAS MUNICIPAL LAW BULLETIN™

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EMAILS AS RECORDS & USING PERSONAL EMAIL ACCOUNTS



As a city official or employee, whether you are texting, tweeting, emailing, or taking written notes, if the document is about city business, the message is public information under state law.

Ripped from recent headlines:

- **UT System Regents to Fashion New Email Rules** that require regents to use UT System email accounts (not personal / private accounts) to conduct UT business so that system staff can search for relevant messages when responding to Open Records Requests.
- **Save Our Springs Alliance (SOS) Sues Travis County Commissioner for Emails, Records** regarding roads despite the county attorneys having received authorization to withhold the records by the Texas attorney general's office.

City-related email, social media posts, and text messages are generally public data that must be retained and often are subject to release. Don't assume that a transmission is private merely because digital blip was transmitted on a personal mobile phone or personal laptop that wasn't paid for by the city. The term "public information" is very broad, and includes:

a book, paper, letter, document, **email**, **Internet posting**, **text message**, **instant message**, **other electronic communication**, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

TEX. GOV'T CODE §552.002. The AG has stated that Texas recognizes work-related email is info that may be subject to public disclosure. *See* Tex. Att'y Gen. ORD-654 (1997); Tex. Att'y Gen. OR2001-1790. The AG also said that text messages are documents that must be released when they meet the requirements for public info. Tex. Att'y Gen. OR2011-13256. Whether the emails were sent from city-owned phones or computers, or processed by city email servers is irrelevant.

Top 5 Tips for Taming your Texts:

1. Keep in mind, *public information is public information is public information*. Even if it is on your personal device or personal account.
2. All Public Information must be retained.
3. Every official, employee, and volunteer should have a city email address, or their private email address will become their public email address.
4. All public information must be released unless it can be shown that the information is confidential or falls under a discretionary exception.
5. Adopt an email policy requiring these individuals to use a city email address.

Want to learn more? Come see us at the TML

Annual Conference at the Austin Convention Center:

The Digital Age: Taming Your Text, Tweets, and Other Digital Records

Wednesday, October 5th, at

3:30 p.m. For more information on the Conference go here: www.tmlconference.org.



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