



Office of the City Auditor Policies and Procedures

Number: 3.5.7**Title:** Reporting Confidential Information

Original Date:**Revision Date:****Last Review Date:****Approved by:**

08/20/2008

I. References

See *Government Auditing Standards* (also referred to as the *Generally Accepted Government Auditing Standards, or GAGAS*), July 2007 revision, Chapter 8, sections 8.04-8.05 and 8.38-8.43; OCA policy 3.5.4, Report Content and Format for Performance Audits, OCA policy 3.5.5, Report Distribution, and OCA Policy 5.1.2, Release of Information.

II. Policy

The Office of the City Auditor (OCA) will protect confidential information from public disclosure and will handle the withholding of confidential information from audit reports in accordance with GAGAS. Once information has been issued in a confidential report to authorized recipients, OCA will not issue redacted versions of the confidential report. OCA is committed to transparency in government and will make every effort to maximize the amount of information provided to the public.

III. Purpose

Some information produced in the course of an audit may be prohibited from general disclosure by federal, state, or local laws or regulations, or may be inadvisable to report for other reasons such as public safety and security or pending litigation. The purpose of this policy is to provide guidance in determining what confidential information should be protected from public disclosure, to establish procedures for issuing audit reports that might contain such information, and to ensure compliance with GAGAS when such reports or parts of reports are not publicly disclosed.

IV. Definitions

- A. **Confidential Information**¹ – Information or findings that:
1. are prohibited from disclosure to the public by law or regulation, or
 2. could adversely affect public interest, the conduct of government programs, or the privacy of individuals, or could otherwise be misused, if disclosed.

V. Procedures/Responsibilities

- A. **Identifying Potentially Confidential Information.** The **audit team/AIC** are responsible for assessing information being considered for inclusion in an audit report, to determine whether the information is potentially confidential.
1. In making this determination, auditors should consider applicable laws and regulations, City policy, and auditor judgment regarding the potential for misuse or adverse public impact if the information is included in a public report.
 2. Examples of such information include Austin Energy (AE) confidential competitive information, computer security information, certain personnel information, and information relating to litigation involving the City. (See the **Appendix** at the end of this policy for examples of specific categories of potentially confidential information).
 3. As applicable, consult with management of the auditee to determine whether information produced during an audit that is subject to reporting is confidential enough to warrant exclusion or separate reporting. If the auditee initiates a request that information be excluded or limited from full public disclosure, it will be the auditee's responsibility to present the justification to OCA.
- B. **Determining Whether Information Should Be Withheld from Reporting.** Once the information is determined to be potentially confidential, the **audit team/AIC** should determine if the information should be withheld from public release. The decision to withhold will be at the **City Auditor's (CA)** discretion.
1. The **audit team/AIC** should:
 - a. Consult with the **ACA**, the **OCA Records Manager**, and the **DCA**
 - b. As needed (in the judgment of the **ACA/DCA/Records Manager**), obtain City Law department opinion and advice. In addition, if the information is related to an audit of AE,

¹ Equivalent to "sensitive or confidential information" as used in GAGAS

- the **audit team/AIC** should always consult with AE Legal staff, around the time the management draft is issued.
- c. As needed (in the judgment of the **ACA/DCA/Records Manager**), notify the **CA**, who will make a determination of whether to disclose the information.
 2. If there is disagreement among OCA and the auditee or the Law department regarding whether information should be proposed for Executive Session and withheld from public reporting, the **CA** may consult additional outside legal counsel.
 3. The final determination will be made by the **CA**, based on GAGAS guidance and a consideration of whether it is in the public interest to disclose the information or withhold it.
- C. **Procedures and Options for Withholding Information from Reporting.** Once the determination has been made that information should be withheld from public release in audit reports, the **audit team and AIC**, in consultation with the **ACA, OCA Records Manager**, and **DCA** as needed, should determine how best to withhold the pertinent information. The options are to either modify the report or issue the report as entirely confidential:
1. **Modify the report**
 - a. Either omit the confidential information, provided the modification does not alter the audit findings. The audit team should evaluate whether the omission could distort the audit results or conceal improper or illegal practices, and take steps to avoid such distortions. The nature of the information omitted and the reason(s) for withholding it should be noted in the audit report; or
 - b. Split the report into two reports containing the general (non-confidential) and confidential portions of the audit results, in order to allow as much of the audit work as possible to be issued publicly. For handling of the confidential report, see the following section. The nature of the information omitted from the non-confidential report and the reason(s) for withholding it should be noted in the non-confidential report, or in a separate public summary in the case of a verbal report.
 2. **Alternatively, issue the information as a confidential report**, and distribute the report only to parties responsible for acting on the audit recommendations or other parties who are authorized to receive the report (see OCA Policy 3.5.5, Report Distribution, for more information on distribution lists). In this case, the **audit team/AIC** should:
 - a. Determine the form in which the confidential report will be issued. Options are to:
 - i. **Issue a limited-distribution written report**, which may be presented in an Executive Session of the Audit

- and Finance Committee (AFC) or may be issued to individual stakeholders with or without individual briefings; or
- ii. **Communicate detailed confidential information verbally**, and communicate general information in a written report. This, too, may occur in Executive Session or in individual briefings with Council and other relevant stakeholders. All information communicated verbally must be documented in the working papers, in accordance with GAGAS.
- b. Ensure that any written report is clearly marked Confidential and use a cover printed on red paper (use **Attachment A – OCA Confidential Report Cover Page Template**, for non-AE reports; use the standard AE confidential cover page for AE reports); and document any limitation on report distribution (for both written and verbal reporting) in the working papers.
 - c. Write a general report or synopsis summary for posting to the OCA website.
 - i. The summary should:
 - a. Clearly indicate that the written report itself is Confidential.
 - b. Include a generalized statement of the Objectives, Scope, and Methodology of the audit.
 - c. Disclose the justification for limiting the distribution of the report, including reference to any applicable law or regulation.
 - ii. If the information was deemed confidential due to auditee concerns, the **AIC** should provide the auditee an opportunity to review the summary to provide assurance that no confidential information is contained therein, including an option for legal counsel to review it. The **AIC** should request a written confirmation that the auditee does not object to the summary and should notify the **ACA** when confirmation is received.
 - iii. If the auditee does not agree to any summary information being made public, or they cannot come to an agreement with the AIC over the contents of the summary, the **AIC** should notify the **CA**. The **CA** may consult additional legal counsel and should make the final determination of how to proceed in the absence of auditee agreement.
 - iv. The **AIC** should notify the **DCA** and **CA** when the summary is completed and when the written auditee confirmation has been received (as applicable), and should request permission to make the summary

- public and post it on the OCA website. The **DCA** or **CA** should approve posting of the summary, or request changes and approve upon subsequent review.
- v. After the summary is approved by the **DCA** or **CA**, the **AIC** should notify the **OCA administrative staff**, which will be responsible for posting the summary on the OCA website and for ensuring that the confidential report itself is not publicly posted.
 - d. If the information (for either a written or verbal report) is anticipated to be presented in Executive Session, the **audit team/AIC** should:
 - i. Obtain approval from the Law Department to ensure the item is appropriate to request for Executive Session.
 - ii. Work with OCA administrative staff to ensure the meeting is posted correctly on agenda postings.
 - iii. If the AFC approves the report for Executive Session, follow step iv next. If the AFC declines to hear the report in Executive Session and asks for a public presentation, the report is no longer confidential.
 - iv. After the Executive Session, retrieve any confidential reports that were distributed during Executive Session, not leaving the reports in the possession of the participants. Any exceptions must be approved by the **CA**.
- D. **Responding to Requests for Redacted Reports.** Once a confidential report has been issued and distributed according to OCA Policy 3.5.5, Report Distribution, OCA will not issue a redacted version of the confidential report. For additional guidance on responding to public information requests of the audit office, see OCA Policy 5.1.2, Release of Information.

APPENDIX
Examples of Specific Categories
of Potentially Confidential Information

- Austin Energy Confidential Information
See the City of Austin [Administrative Bulletin 02-02](#) on Guidelines and Work Processes for Handling Austin Energy's Confidential Information.

- Texas Public Information Act (PIA)
The following are examples of types of information that are eligible for exemption from public disclosure under the PIA, at the discretion of the Attorney General, and might be deemed confidential in regard to their use in audit reports. This list is not exhaustive; see [Government Code Chapter 552](#), Subchapter C for a full list and additional guidance.
 - Information considered to be confidential by law, either constitutional, statutory, or by judicial decision (552.101)
 - Personnel information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy (552.102)
 - Information relating to litigation involving a governmental body or an officer or employee of a governmental body... only if the litigation is pending or reasonably anticipated (552.103)
 - Information that, if released, would give advantage to a competitor or bidder (552.104)
 - Information related to location or price of property (552.105)
 - Certain economic development information (552.131)
 - Public power utility competitive matters (552.133)
 - Information that relates to computer network security or to the design, operation, or defense of a computer network (552.139)