

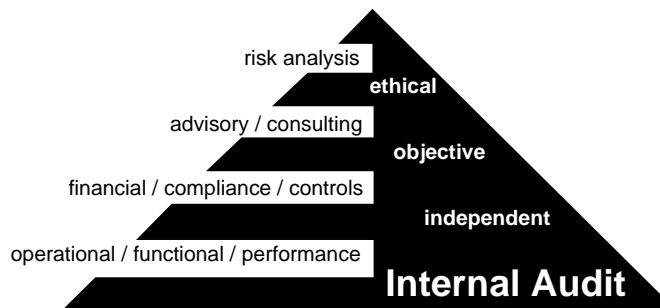
# ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



## Administration of Public Record Act Requests

### Internal Audit Report No. 22-510

August 10, 2022



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## **Conclusion**

The Internal Audit Department (Internal Audit) of the Orange County Transportation Authority (OCTA) has completed an audit of the administration of Public Records Act requests. Based on the audit, public records requests are handled in accordance with the California Public Records Act (CPRA) policy and procedures. Internal Audit offered one recommendation to update procedures and the OCTA website to address all methods for submitting a public record request and times available for in-person viewing of records.

## **Background**

The Clerk of the Board (COB) department is responsible for registering and processing requests by members of the public for the inspection and/or copies of public records, as defined by the CPRA, Government Code Section 6250 et seq.

### California Public Records Act

The CPRA is a series of laws designed to guarantee that the public has access to public records of governmental bodies in California. The CPRA was signed into law in 1968. If there is no specific statutory exemption, all records of included agencies are subject to the CPRA. Public records are defined as “any writing containing information relating to the conduct of the public business prepared, owned, used or retained by and state or local agency regardless of physical form or characteristics.” Most of the reasons for withholding disclosure of a record are set forth in specific exemptions contained in the CPRA. However, some confidentiality provisions are incorporated by reference to other laws. Also, the CPRA provides for a general balancing test by which an agency may withhold records from disclosure if it can establish that the public interest in nondisclosure clearly outweighs the public interest in disclosure.

### Public Access to Records Policy and Procedure

The Public Access to Records Policy and Procedure exists to provide guidelines regarding requests from the public to access OCTA records. The policy originated in 1995 and was last revised in September 2020. The policy states OCTA will provide access to its records to the fullest extent required by the CPRA. The policy defines public records in the same manner as the CPRA. The policy allows for the inspection of public records during OCTA business hours. Once a request is received, the COB is responsible for contacting the appropriate department to obtain the records and shall notify the requesting party of the date and time for the inspection to take place. The notification should occur in writing and be within ten calendar days of the receipt of the request. If OCTA is unable to decide within the ten calendar days, as to if the request, in whole or in part, seeks copies of disclosable public records, the COB shall work with general counsel to obtain an extension of time, in writing, for up to 14 calendar days. If the record is deemed to be exempt from disclosure pursuant to state or federal law, OCTA shall not

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disclose the record to the public and the COB, and in conjunction with general counsel, will notify the requestor in writing of such decisions and the reasons. All charges and fees for the duplication of records are set forth within the policy. Records emailed, viewed in person, or made available through the GovQA system, are free of charge.

OCTA Website and GovQA System

The OCTA website includes a link with information on filing a request for records and a link to the GovQA system used for administration of public records requests. Requests are typically made directly through the GovQA system and requests received by mail and/or by phone are entered into the system by COB staff. Once a request is entered, an email is sent to an inbox that is accessed by COB staff. COB staff notify the applicable department of the documents requested and coordinate with legal counsel, as appropriate, to evaluate the request, notify the requestor of a Notice of Extension (if needed), and to provide the electronic records and/or notify that the records are available for viewing. All records, communications, and the timelines for response are retained in the system.

**Objectives, Scope, and Methodology**

The objectives were to assess and test the adequacy and effectiveness of controls, policy, and procedures in place to ensure compliance with the CPRA.

According to Generally Accepted Government Auditing Standards (GAGAS), internal control is the system of processes that an entity's oversight body, management, and other personnel implement to provide reasonable assurance that the organization will achieve its operational, reporting, and compliance objectives. The five components are control environment, risk assessment, control activities, information and communication, and monitoring.<sup>1</sup> The components and principles that were evaluated as part of this audit are:

- Control Environment
  - Management establishes, with Board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives.
  - OCTA demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives.
- Control Activities
  - OCTA selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.
  - OCTA deploys control activities through policies that establish what is expected and procedures that put policies into action.

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<sup>1</sup> See U.S. Government Accountability Office publication, "Standards for Internal Control in the Federal Government," available at <http://www.gao.gov/products/GAO-14-704G>, for more information.

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The methodology included comparison of key attributes from the CPRA, as outlined in The People's Business: A Guide to the California Public Records Act, April 2017, to OCTA policy, procedures, and website information, and testing of a judgmental sample of requests for compliance with the CPRA policy and procedures, as well as deposit of fees assessed (as applicable).

The scope was limited to activities related to administration of public records requests. The scope included all requests received during fiscal year 2021-22. The judgmental sample was selected to provide coverage of each month during the scope period, and to ensure inclusion of requests that required assessment of a fee and requests that took longer than ten days to closeout in the system. Since the samples were non-statistical, any conclusions are limited to the sample items tested.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**Audit Comment, Recommendation, and Management Response**

**Procedures and Website Update**

The OCTA website does not provide information on all available methods for making a request. Currently, the website directs requestors to the GovQA system but does not include information for making a request by phone, email, or in writing. Written procedures also do not outline handling of requests received through other means. Testing did identify requests received by phone and email that were recorded in the system by COB staff, however, the date and time of receipt of the request was not documented.

The CPRA also requires agencies to allow requestors to view public records during office hours; however, the public records request website page limits hours for inspection to between 10:00 a.m. and 2:00 p.m. due to the coronavirus pandemic. The OCTA general website identifies business hours as 8:00 a.m. to 5:00 p.m.

**Recommendation 1:**

Internal Audit recommends management update the website to offer requestors information on all available methods to make a request. In addition, the website should be updated to reflect current office hours during which records may be viewed. Written procedures should be updated to include steps for processing requests received outside the system and require documentation of the date and time that these requests were received.

**Management Response:**

Management agrees with the recommendation in the report. The recommended changes to the website were implemented on August 5, 2022. The written procedures will be updated and implemented according to the recommendation by August 12, 2022.