

July 8, 2022

Iowa Public Information Board
Wallace Building, Third Floor
502 East 9th Street
Des Moines, IA 50319

RE: ARC # 6360C

IPIB Board Members,

Comes now the Iowa League of Cities (League), a statewide organization representing over 870 cities in Iowa. The League is a 125 year old membership led organization that serves as the unified voice of cities, providing advocacy, training, and guidance with the goal of strengthening Iowa's communities. The League has consulted with its members and provides these comments related to the proposed rule changes in ARC # 6360C.

To begin, we think it is important to acknowledge the scope of cities this rule impacts. There are 940 cities in the state of Iowa. Each differs in many ways, perhaps the most important for the context of this rule making is population. Population is important to note because it is one of the factors that impacts the available resources of a community, and available resources dictate appropriate staffing levels. There are more than 770 cities with populations below 2,000. Generally speaking, around 2,000 in population is when cities begin thinking about hiring a city manager and/or additional staff. There are over 500 cities in Iowa with a population *below* 500. Generally speaking, many cities below 500 do not have full time staff and the lower the population the more limited staff becomes. It is not uncommon for smaller communities to share a clerk who works a limited number of days/hours each week in each community. We state these facts to communicate that many cities in Iowa do not have the resources or staff to monitor all possible forms of communication (see comments on Section 11.2(1)(e)) or to respond immediately to extensive public record requests.

Our concerns with the proposed rule revolve around the lack of clarity for city officials and the possible confusion that these changes could cause in the public. Lack of clarity will lead to an increased number of complaints to IPIB which will impact the time and resources of both IPIB staff as well as the local governments which have to respond to such complaints.

- **Section 11.2(1): “In writing” and “where contact information has been provided”**
 - 11.2(1) requires that a public records request be “acknowledged in writing”. Clarification is needed on whether “in writing” includes electronic communications. We believe that a common reading of this language would include and allow for electronic correspondence from the city to the requestor, but we believe there is value in clarifying that the receipt of a request can be acknowledged through electronic means.
 - 11.2(1) requires that the acknowledgement be provided in writing “where contact information has been provided”. This language has the potential to create confusion through its interaction with other areas of code and this proposed rule. For example, if a request is made electronically through social media is the social media address of the requestor sufficient “contact information” for the individual? Even if it is an anonymous social media account? Is a response from the city through social media acceptable for a written response? For example, a citizen sees a social media post from a city and they respond to it via social media with a request for information -

can the city respond to their response on social media to satisfy the requirements of this section?

- **Section 11.2(1): “Acknowledgement within two business days”**

- (d) and (e) require acknowledgement within two business days for a request made through fax and social media within two days after reception of the communication. What does it mean for a communication to be “received” within the context of fax and social media? Many small communities have limited staff that work limited hours on limited days. Therefore, given current staffing levels in many communities, it would be unreasonable to expect a response from the city within two business days from when the request is sent by the requestor. “Receipt” of the request should occur when the local government employee receives it. Even with this clarification, communication by IPIB to the public that there is no hard “two business day” rule will be important to managing the number of complaints that arise from the public because of lack of awareness. This also means that response times across the state will differ. Even if staff is working on a particular day, limited staff and a large number of job duties means it is infeasible for them to monitor all forms of communication all of the time.
- Additionally, we have concerns that a member of the public may not realize that the acknowledgement of the request may just be the first communication from a local government before the records can be supplied. After acknowledgement of the request a city will still need to determine the scope of the request, whether the city has in its possession records relevant to the request, and the fees that may be associated with facilitating the request.

- **Section 11.2(1)(e) Request by other means, including social media**

- While we understand the desire to make public records requests easy for the public, and the desire to utilize new and efficient means of communication, more clarity needs to be provided about what a “request by other means, including social media” means. “Other means” could give the public the belief that they can submit through any means, and that creates difficulties for compliance from local governments because they may not know that they need to be monitoring all avenues of communication. Social media is an important communication tool but it raises a number of questions if it is to be used for public records requests. For example, is a reply to a social media post a public records request or must it be done through a direct message? Lack of clarity in this area may cause communities to restrict the ability to communicate with them through social media for fear that records requests may be made in ways that are not apparent to the local government.

For the above reasons, the League believes that further clarity is needed before the proposed rule is adopted. Lack of clarity will create confusion for the public and potentially burden the IPIB as well as local governments across the state with unnecessary complaints due to confusion rather than wrongdoing.

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