

FORM # 3

Agency Report Template

INSTRUCTIONS

The Identifying Information Law requires each agency to submit a **report** regarding, among other items, the collection, retention, and disclosure of identifying information by such agency and their “human services” contractors or subcontractors, **by no later than July 31, 2018**, and every two years thereafter by July 31. This report must be completed by the agency and submitted to the Mayor, at reports@cityhall.nyc.gov; City Council Speaker, at reports@council.nyc.gov; Chief Privacy Officer (“CPO”), at PrivacyOfficer@cityhall.nyc.gov; and Identifying Information Protection Committee (“Committee”), at NYCPrivacyCommittee@cityhall.nyc.gov. While the Law does not specify who at the agency must complete the report, the Agency Privacy Officer (“APO”) is likely best positioned to do so. Reports completed by APOs who are not lawyers should be reviewed and approved by the agency’s General Counsel or other counsel to the agency before submission by the agency. Agency reports, to be reviewed by the CPO and Committee, will help to inform citywide policies and procedures promulgated by the CPO and new agency requirements for the protection of identifying information, in a manner consistent with the Law. **Agency reports must be signed by the agency head or designee prior to submission.**

The answers provided in the Inventory and Routine Designation Form should provide a significant amount of information needed to complete this Report Form. Each question or prompt includes references to specific requirements in the Law.

NOTE: For questions requesting information about existing agency policies relating to the disclosure of identifying information, agencies should describe their specific agency policies, and may also reference the Model Citywide Protocol for Handling Third Party Requests for Information Held by City Agencies, issued as City policy in April 2017 (on file with the CPO).

IMPORTANT NOTE

THE INFORMATION CONTAINED IN THE AGENCY REPORT WILL BE PUBLIC INFORMATION. PREPARERS OF THIS REPORT SHOULD CONSULT WITH THEIR AGENCY’S GENERAL COUNSEL OR THE CHIEF PRIVACY OFFICER REGARDING ANY QUESTIONS AS TO WHETHER THE AGENCY’S RESPONSES TO QUESTIONS IN THE REPORT ARE PROVIDED IN ACCORDANCE WITH APPLICABLE LAW AND CITY POLICY.

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AGENCY REPORT

(due on or before July 31, 2018, and by July 31 every two years thereafter)

Agency:	Law Department		
Agency Privacy Officer:	Kathryn Conway		
Email:	Kaconway@law.nyc.gov	Telephone:	212-356-2383
Date of Report:	July 25, 2018		

1. Specify the types of identifying information collected, retained, and disclosed by the agency

Check all that apply.

<input checked="" type="checkbox"/> Name	<input checked="" type="checkbox"/> Date of Birth
<input checked="" type="checkbox"/> Current and/or previous home addresses	<input checked="" type="checkbox"/> Place of Birth
<input checked="" type="checkbox"/> Gender identity	<input checked="" type="checkbox"/> Race
<input checked="" type="checkbox"/> Sexual orientation	<input checked="" type="checkbox"/> Marital or partnership status
<input checked="" type="checkbox"/> Contact information (e.g., phone or email)	<input checked="" type="checkbox"/> Citizenship/immigration status
<input checked="" type="checkbox"/> Religion	<input checked="" type="checkbox"/> Nationality
<input checked="" type="checkbox"/> Employment status	<input checked="" type="checkbox"/> Country of origin
<input checked="" type="checkbox"/> Employer information	<input checked="" type="checkbox"/> Languages spoken
<input checked="" type="checkbox"/> Employment address	<input checked="" type="checkbox"/> Social media account information
<input checked="" type="checkbox"/> Motor vehicle information	<input checked="" type="checkbox"/> Income tax information
<input checked="" type="checkbox"/> Biometric information	<input checked="" type="checkbox"/> Any scheduled court appearances
<input checked="" type="checkbox"/> Eligibility for/receipt of public assistance or city services	<input checked="" type="checkbox"/> Arrest record or criminal conviction
<input checked="" type="checkbox"/> Status as victim of domestic violence or sexual assault	<input checked="" type="checkbox"/> Status as crime victim or witness
<input checked="" type="checkbox"/> Date and/or time of release from custody of ACS, DOC, or NYPD	<input checked="" type="checkbox"/> Any scheduled appointments with any employee, contractor, or subcontractor
<input checked="" type="checkbox"/> Information obtained from any surveillance system operated by, for the benefit of, or at the direction of the NYPD	<input checked="" type="checkbox"/> Social Security Number
<input type="checkbox"/> Other:	

N.Y.C. Admin. Code §23-1205(1)(a)

2. Specify the reasons why collection and retention of identifying information specified above furthers the purposes or mission of your agency.

Administration: the Administration function of the Law Department collects, discloses and retains various identifying information for the purpose of managing a range of personnel services necessary to staff ongoing agency operations and deliver the agency's programs and services.

Contracts: the Contracts function of the Law Department collects, discloses and retains various identifying information for the purpose of carrying out the legal business of the City of New York by overseeing City-wide contracting and Law Department-specific procurements.

Counseling: the Counseling function of the Law Department collects, discloses and retains various identifying information for the purpose of carrying out the legal business of the City of New York by counseling and advising our clients on legal issues in litigation, transactional, and legislative contexts.

Family Court-specific Function: the Family-Court specific function of the Law Department collects, discloses and retains various identifying information for the purpose of carrying out the legal business of the City of New York by promoting the well-being of the City's children and protecting the general public.

Litigation and Pre-litigation Activities: the Litigation and Pre-Litigation function of the Law Department collects, discloses and retains various identifying information for the purpose of carrying out the legal business of the City of New York by representing the City, and its employees, agents and assigns.

Public Relations: the Public Relations function of the Law Department collects, discloses and retains various identifying information for the purpose of carrying out the legal business of the City of New York, promoting the efforts of the Law Department, and complying with New York State's Freedom of Information Law.

Tax & Bankruptcy-specific Function: the Tax & Bankruptcy-specific function of the Law Department collects, discloses and retains various identifying information for the purpose of carrying out the legal business of the City of New York by enabling notice, ownership, and encumbrance determinations to be made.

N.Y.C. Admin. Code §23-1205(1)(f)

3. Describe the types of collections and disclosures classified as: (1) pre-approved as “routine,” (2) pre-approved as routine by APOs of two or more agencies, or (3) approved by the APO on a case-by-case basis.

Add additional rows as needed.

Describe the Collection or Disclosure	Classification Type
Administration: Operations: The Law Department’s Operations sub-function (including our mail room, processing center, courier service, help desk, facilities management, etc.) collects, discloses and retains various information and records, including, but not limited to legal mail, court records, and agency employee data, for the purpose of supporting the Law Department in its mission of representing and carrying out the legal business of the City of New York.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Administration: Employee Services and Management: The Law Department’s Employees Services and Management sub-function (including human resources, recruiting, professional development, EEO, the Department Advocate, etc.) collects, discloses and retains various personnel-related information and records, including, but not limited to personnel information, employee benefits, payroll, employment histories, resumes, requests for accommodation, onboarding and separation information, FMLA, leave and retirements requests, applications for the practice of law, backgrounds checks, EEO Complaints, evaluation and disciplinary records, biometrics, educational background information, birth/death/marriage certification, citizenship/immigration information, and other related employee information, in the performance of core administrative and human resource functions.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Administration: Internal and External Audits: The Law Department’s Internal and External Audit sub-function collects, discloses and retains various information and records, including, but not limited to agency employee data, contract information, vendor information, and financial information, for the purpose of ensuring the integrity of internal operations and complying with federal/state/local law.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Contracts: Contracts and Transactional Work: The Law Department’s contract and transactional work sub-function (including oversight of City contracting and Law Department procurements) collects, discloses and retains various information and records, including, but not limited to, contractor and vendor financial information, bids, proposals, contracts, title records, real property information and records, bonds, vouchers, and invoices, for the purpose of furthering the legal business of the City of New York.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Counseling: Counseling and Advising: The Law Department’s counseling and advising sub-function collects, discloses and retains various information and records, including, but not limited to, contractor and vendor financial information, bids, proposals, contracts, title records, real property information and records, bonds, vouchers, invoices, court records, medical records, employment records, immigration records, marriage/birth/death records, contracts, criminal justice information, social media information, biometric information, surveillance records, tax information, resumes, and other litigation records, for the purpose of advising and counseling City clients, agents and assigns.	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Family Court-specific Function: Juvenile Delinquency Prosecutions: The Law Department’s Juvenile Delinquency Prosecution sub-function collects, discloses and retains various information and records, including, but not limited to, criminal records, employment records, educational records, court records, federal/state/local government records, medical records, and juvenile histories, for the purpose of investigating and presenting juvenile delinquency cases to the Family Court in the five boroughs of New York City.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Family Court-Specific Function: Support Cases: The Law Department’s Support Cases sub-function collects, discloses and retains various information and records, including, but not limited to, financial information of custodial and non-custodial parents, employment records, medical records, information on the subject children, litigants, other family members, family histories, court records, child support records, insurance records, and federal/state/local/international records, for the purpose of litigating or handling international and inter-state child support cases, including incoming and outgoing cases, pursuant to an MOU with the Human Resources Administration and in support of the national child support program.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Litigation and Pre-litigation Activities: Representing the City & City Clients: The Law Department’s Representation sub-function (including all our litigating divisions) collects, discloses and retains various information and records, including, but not limited to, court records, medical records, employment records, immigration records, marriage/birth/death records, contracts, criminal justice	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-

information, social media information, biometric information, surveillance records, tax information, resumes, and other litigation records, for the purpose of representing the City of New York, and its employees, agents and assigns in litigation.	by-case basis
Litigation: Pre-litigation Investigations: The Law Department's Pre-litigation Investigations sub-function collects, discloses and retains various information and records, including, but not limited to, court records, medical records, employment records, immigration records, marriage/birth/death/ records, contracts, criminal justice information, social media information, biometric information, surveillance records, tax information, resumes, and other litigation records, for the purpose of representing the City of New York, and its employees, agents and assigns in litigation.	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Public Relations: FOIL: The Law Department's FOIL sub-function (including requests and responses) collects, discloses and retains various information and records, including, but not limited to, court records, medical records, employment records, contracts, criminal justice information, social media information, surveillance records, tax information, resumes, and other litigation records, for the purpose of complying with New York State's FOIL.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Public Relations: Press: The Law Department's Press sub-function (including responses to inquiries and correspondence, as well as affirmative releases) collects, discloses and retains various information and records, including, but not limited to, press releases, court records (specifically, pleadings and motions), and photographs, for the purpose of furthering the legal business of the City of New York and promoting the efforts of the Law Department.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Public Relations: Newsletter: The Law Department's Newsletter sub-function collects, discloses and retains various current and former employee-related information and court records to agency employees, City agencies, former Corporation Counsels, strategic partners at New York Law School, and certain specially-designated individuals for the purpose of promoting employee morale and the efforts of the Law Department.	<input checked="" type="checkbox"/> Pre-approved as routine <input type="checkbox"/> Approve as routine by two or more agencies <input checked="" type="checkbox"/> Approved by APO on a case-by-case basis
Tax & Bankruptcy-Specific Function: Closings: The Law Department's Closings sub-function collects, discloses and retains various property-related information and records, including, but not limited to, tax information, real property information and records, title reports, and affidavits of title, in order to make notice and ownership determinations, as well and determine the existence of encumbrances.	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis
Tax & Bankruptcy-Specific Function: Title Bureau: The Law Department's Closings sub-function collects, discloses and retains various property-related information and records, including, but not limited to, tax information, real property information and records, title reports, and affidavits of title, in order to make notice and ownership determinations, as well and determine the existence of encumbrances.	<input checked="" type="checkbox"/> Pre-approved as routine <input checked="" type="checkbox"/> Approve as routine by two or more agencies <input type="checkbox"/> Approved by APO on a case-by-case basis

N.Y.C. Admin. Code §23-1205(1)(b)

4. If applicable, specify the types of collections and disclosures approved by the Chief Privacy Officer.

Add additional rows as needed.

Describe Type of Collection or Disclosure

N/A

N.Y.C. Admin. Code §23-1205(1)(b)

5. Describe the agency's current policies regarding requests for disclosures from other City agencies, local public authorities or local public benefit corporations, and third parties.

- Ethics Rules and Agreement: required to be read and signed by non-employees (volunteers, interns, consultants, etc.) of the Law Department, it prohibits disclosing confidential information obtained in the course of their service with the agency.
- HIPAA Business Associate Agreement
- Identifying Information Law Procedure: an agency-wide email was sent informing Law Department

Identifying Information Law

employees of the Identifying Information Law and that, if they receive any requests for disclosure of identifying information outside the scope of their normal agency duties, they are to contact their supervisor, who will contact the Law Department APO. The APO will then assess and determine, using the text of the Identifying Information Law as well as the guidance issued by the CPO to date, whether disclosure to the requesting party is permitted by law.

- Law Department Office Manual: outlines standards of conduct to which all Law Department employees are held, as well as policies which all employees are required to follow, including, *inter alia*, a specific provisions on “Confidentiality and Privacy,” requiring employees to “maintain the confidentiality of information to which they have access in the course of performing their duties,” prohibiting employees from attempting to “access or obtain confidential material for any purpose other than what is necessary for the performance of that employee's job duties,” and making inappropriate disclosure or use of such information grounds for immediate disciplinary action.
- Model Citywide Protocol for Handling Third Party Request for Information Held by City Agencies
- NYC Charter: Chapter 68, §2604(b)(4), prohibits City employees from disclosing any confidential information concerning the “property, affairs or government of the city which is obtained as a result of the official duties” of such employee, and which is not otherwise available to the public.
- NYC Charter: Chapter 68, §2603(b)(2) Certification: required to be read and signed by employees of the Law Department, it, *inter alia*, highlights §2604(b)(4)’s prohibition on the disclosure of confidential information.
- NY State Rules of Professional Conduct: state ethical rules on attorney conduct, including specific provisions regarding confidentiality of client information. See Rule 1.6.

6. Do the above policies address access to or use of identifying information by employees, contractors, and subcontractors? Yes No

7. If YES, do such policies specify that access to such information must be necessary for the performance of their duties? Yes No

8. Describe whether the policies are implemented in a manner that minimizes such access to the greatest extent possible while furthering the purpose or mission of the agency.

Yes, see in particular the description of the Law Department Office Manual, above.

N.Y.C. Admin. Code §§23-1205(1)(c)(1), and (4)

9. Describe the agency’s current policies for handling proposals for disclosures of identifying information to other City agencies, local public authorities or local public benefit corporations, and third parties.

See response to Question 5.

N.Y.C. Admin. Code §23-1205(1)(c)(2)

10. Describe the agency’s current policies regarding the classification of disclosures as necessitated by the existence of exigent circumstances or as routine.

As described in the response to Question 5, an agency-wide email was sent informing Law Department employees of the Identifying Information Law and that, if they receive any requests for disclosure of identifying information outside the scope of their normal agency duties, they are to contact their supervisor, who will contact the Law Department APO. The APO will then assess and determine, using the text of the Identifying Information Law as well as the guidance issued by the CPO to date, whether exigent circumstances or those allowing a disclosure to be classified as routine, exist.

N.Y.C. Admin. Code §23-1205(1)(c)(3)

11. Describe the agency’s current policies regarding which divisions and categories of employees within an agency make disclosures of identifying information following the approval of the privacy officer.

The Law Department’s APO has inventoried the collection, disclosure, and retention of identifying information at the agency, and determined which collections, disclosures, and retentions are considered routine (see response to Question 3). As stated in the response to Question 10, agency employees have been instructed to notify their supervisors, who are to contact the APO, should a situation arise wherein they are requested or required to disclose identifying information outside the scope of their regular duties at the Law Department (i.e. when the need for a non-routine disclosure arises).

N.Y.C. Admin. Code §23-1205(1)(c)(4)

12. Describe whether the agency has considered or implemented, where applicable, any alternative policies that minimize the collection, retention, and disclosure of identifying information to the greatest extent possible while furthering the purpose or mission of such agency.

N/A

N.Y.C. Admin. Code §23-1205(4)

13. Describe the agency’s use of agreements for any use or disclosure of identifying information.

The following information privacy protection-related provisions are included in Law Department agreements, where applicable:

- Appendix A §5.08: (applies to contracts > \$100,000)
- Discretionary Funds Contract, §7E (applies to contracts < \$100,000)
- Identifying Information Law Rider (if the Law Department enters into any human services contracts)
- HIPAA Provisions (when the Law Department is acting as a Business Associate of a covered entity and is subcontracting in a manner subject to the HIPAA privacy rules)

N.Y.C. Admin. Code §23-1205(1)(d)

14. Using the table below, specify the types of entities requesting the disclosure of identifying information or proposals for disclosures of identifying information, and for each entity, describe (1) the reasons why an agency discloses identifying information to such entity, and (2) why any such disclosures furthers the purpose or mission of such agency.

Add additional rows as needed.

Type of Entity	Description of Reason for Disclosure	Description of how disclosure furthers the purpose or mission of the agency
Administration: employers, medical providers, federal/state/local/international government agencies, vendors, contractors, educational institutions	Disclosure is made to the aforementioned entities if the subject employee has requested or consented to the disclosure, it's required by law, or it's needed for Law Department or City operations.	Disclosure for the aforementioned reasons enables the Law Department to manage a range of personnel services necessary to staff ongoing agency operations and deliver the agency's programs and services.
Contracts: vendors, contractors, private corporations, federal/state/local government agencies	Disclosure is made to the aforementioned entities if it's needed to bid, enter into, carry out obligations of, or oversee the operation of Law Department and/or City agency contracts.	Disclosure for the aforementioned reasons enables the Law Department to carry out the legal business of the City of New York.
Counseling: federal/state/local government agencies, private corporations.	Disclosure is made to the aforementioned entities if it's necessary to provide advice or counsel to City clients, agents or assigns.	Disclosure for the aforementioned reasons enables the Law Department to carry out the legal business of the City of New York.
Family-Court: subject juvenile, family members, courts, federal/state/local government agencies, custodial and non-custodial parents, litigants, witnesses	Disclosure is made to the aforementioned entities if it's required by law (including court rules), or is necessary to carry out the Family Court function of the Law Department.	Disclosure for the aforementioned reasons enables the Law Department to carry out the legal business of the City of New York.
Litigation: litigating parties, witnesses, courts, experts, employers, federal/state/local/international government agencies, private companies, vendors, mediators, administrative tribunals	Disclosure is made to the aforementioned entities if it's required by law (including court rules), or is necessary to carry out the Litigation function of the Law Department.	Disclosure for the aforementioned reasons enables the Law Department to carry out the legal business of the City of New York.
Public Relations: citizens, federal/state/local government agencies, press, educational institutions	Disclosure is made to the aforementioned entities if it's required by law or necessary to carry out the Public Relations function of the Law Department.	Disclosure for the aforementioned reasons enables the Law Department to carry out the legal business of the City of New York, promote the efforts of the Law Department, and comply with New York State's Freedom of Information Law.
Tax & Bankruptcy: property owners, title companies	Disclosure is made to the aforementioned entities if it's required by law (including court rules), or is necessary to carry out the Tax & Bankruptcy function of the Law Department.	Disclosure for the aforementioned reasons enables the Law Department to carry out the legal business of the City of New York.

N.Y.C. Admin. Code §23-1205(1)(e)

- Proceed to Next Question on Following Page -

15. Describe the impact of the Identifying Information Law and other applicable laws upon your agency's practices in relation to collection, retention, and disclosure of identifying information.

Initial compliance with, and reporting as required by, the Identifying Information Law has placed a significant administrative burden on the Law Department. Due to the sensitive nature of the information the agency works with on a daily basis, the agency's policies and procedures for protecting identifying information were already comprehensive and robust (see response to Question 5), prior to the effective date of the Law. However, as a result of inventorying the agency's collections, retentions, and disclosures of identifying information in order to complete the Forms issued by the CPO, our agency did identify one sub-function (Public Relations: Newsletter) where disclosure of identifying information did not, in every circumstance, meet the Law's definition of "routine." Thus, we adjusted our practices and now more thoroughly scrutinize for compliance disclosures made under this sub-function.

N.Y.C. Admin. Code §23-1205(2)


16. Describe the impact of any privacy policies and protocols issued by the Chief Privacy Officer or the Identifying Information Committee, as applicable, upon your agency's practices in relation to the collection, retention, and disclosure of identifying information.

N/A

N.Y.C. Admin. Code §23-1205(3)

APPROVAL SIGNATURE FOR AGENCY REPORT

Preparer of Agency Report:			
Name:	Kathryn Conway		
Title:	Assistant Corporation Counsel; APO		
Email:	Kaconway@law.nyc.gov	Phone:	212-356-2383

SIGNATURE OF AGENCY HEAD OR DESIGNEE REQUIRED BELOW			
Agency Head (or designee):			
Name:	Stephen Louis		
Title:	Division Chief, Legal Counsel Division		
Email:	SLouis@law.nyc.gov	Phone:	212-356-4020
Signature:		Date:	July 25, 2018

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