

TITLE 1 ADMINISTRATION
PART 1 OFFICE OF THE GOVERNOR
CHAPTER 3 PUBLIC SAFETY OFFICE
SUBCHAPTER J DETERMINATION OF DEFUNDING MUNICIPALITIES

§3.9401 Applicability

Subchapter J of this chapter applies only to a municipality with a population of more than 250,000.

§3.9402 Definitions

- (a) budget: an annual municipal budget required under Sec. 102.002, Local Government Code, that is prepared by a municipality's budget officer to cover the proposed expenditures of the municipal government for the succeeding year;
- (b) municipality: a unit of local government that is established under Title 2, Subtitle A, Local Government Code, or that operates under a municipal charter that has been adopted or amended as authorized by Article XI, Section 5, Texas Constitution;
- (c) police department: a municipal law enforcement agency established as a regular police force under Chapter 341, Subchapter A, Local Government Code; and
- (d) PSO: the Public Safety Office, which includes the Criminal Justice Division of the Office of the Governor.

§3.9403 Review Process for Municipal Budgets

- (a) The PSO shall conduct an annual budget review of all municipalities with a population of more than 250,000 following each fiscal year beginning on or after September 1, 2021 to determine whether the municipality potentially qualifies as a defunding municipality because it reduced its appropriation to the municipality's police department in comparison to its preceding fiscal year.
- (b) The PSO shall derive the population of municipalities of this state from the most recent census provided by the United States Census Bureau.
- (c) The PSO shall base each annual review on data collected from the municipality's publicly available budget, including:

- (1) data published and provided by the municipality under Chapter 102, Texas Local Government Code; and
- (2) law enforcement agency budget office data.

§3.9404 Application for Exception for Certain Reductions to Budget

- (a) A municipality must submit an application provided under subsection (d) of this section to the PSO to request an exception from being considered a defunding municipality due to a reduction to the appropriation to the municipality's police department as set forth in Section 109.004(a)(2), Local Government Code.
- (b) An application submitted under this section must be submitted by either the mayor or city manager of the applying municipality.
- (c) The application and all necessary documentation must be submitted via certified mail to: Public Safety Office, Office of the Governor, PO Box 12428, Austin, Texas 78711.
- (d) Applications must be postmarked no later than 45 calendar days prior to the formal adoption of the proposed budget. The PSO shall make a determination on granting the exception within 30 calendar days after it receives the application. PSO shall not grant an exception under this section after a municipality has adopted a budget for the fiscal year for which it seeks an exception.
- (e) Application forms shall be made available at <https://gov.texas.gov/organization/cjd>.

§3.9405 Criteria for Approval of Certain Reductions to Budget

The PSO's decision whether to grant approval for a reduction to the appropriation to a municipality's police department shall be based upon the following factors:

- (1) the municipality's capital expenditures related to law enforcement during the preceding fiscal year;
- (2) the municipality's response to a state of disaster declared under Section 418.014, Government Code; and
- (3) any additional factors relevant to the application, including, but not limited to:
 - (A) effect on public safety;
 - (B) change in peace officer response times; and
 - (C) change in peace officer to population ratios.

§3.9406 Written Determination That A Municipality is a Defunding Municipality

- (a) If the PSO determines a municipality has defunded its police department as specified by Chapter 109, Local Government Code, the PSO shall issue a written determination to the municipality.
- (b) The PSO shall send the written determination made under this Section to the Texas Comptroller of Public Accounts and, to the extent applicable, to the following office-holders or executive staff of the designated municipality:
 - (1) mayor;
 - (2) city manager; and
 - (3) all city council members.

§3.9407 Termination of Defunding Determination

- (a) A defunding determination issued by the PSO may be terminated by the PSO if the defunding municipality has reversed the reduction in appropriation to the municipality's police department, as described by Section 109.005, Local Government Code.
- (b) A termination of a defunding determination shall be issued in writing to the parties listed in §3.9406(b) of this chapter.
- (c) Decisions concerning a termination of a defunding determination shall be made at the time of the annual review conducted by PSO, unless a municipality submits to the PSO a separate request and supporting documentation earlier.