



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 25, 1998

Mr. Dennis J. Eichelbaum
Schwartz & Eichelbaum, P.C.
General Counsel
Dallas Independent School District
3700 Ross Avenue Box 69
Dallas, Texas 75204-5491

OR98-0800

Dear Mr. Eichelbaum:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113851.

The Dallas Independent School District (the "district"), which you represent, received a request for:

1. Complete copies of any and all documents relating to the DISD current year internal audit plan.
2. Any and all internal memos, requests or reports involving DISD current year internal audit plan.
3. Any and all policy information regarding new audit department and the way it is now set up. Specifically, I am looking for details on positions the newly structured audit department has that it did not have last year.
4. Complete details of the types of purchases, contracts and orders the audit department now audits.
5. Any and all information on purchases contracts and orders that were not audited before newly structured audit department was put in place.

You state that you will release some of the requested information. You claim, however, that some of the requested information is protected from disclosure by sections 552.103, 552.107,

and 552.108. You also assert that the request is "vague and unintelligible." You state, nonetheless, that "We will release the unprotected documents immediately. We will await your opinion regarding whether or not the bracketed information may be withheld." This office has not, however, received any bracketed information.

Pursuant to section 552.301(b), a governmental body is required to submit to this office (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. As noted above, you did not submit to this office copies or representative samples of the specific information that was requested.

Pursuant to section 552.303(c) of the Government Code, this office notified you by facsimile dated February 3, 1998, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue was presumed public. The fact that submitting copies for review to the Attorney General may be burdensome does not relieve a governmental body of the responsibility of doing so. Open Records Decision No. 497 (1988).

As of the date of this letter you have not provided our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). *See, e.g.*, 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests). In the absence of a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the requested information is presumed public and must be released.¹ Open Records Decision No. 195 (1978); *but see* Gov't Code § 552.352 (distribution of confidential information is a criminal offense).

You express concern that the request for information here is vague and that you cannot determine with specificity the documents sought by the requestor. Numerous opinions of this office have addressed situations in which a governmental body has received either an "over broad" written request for information or a written request for information

¹Generally, neither sections 552.103, 552.107 nor 552.108 provide compelling demonstrations to overcome the presumption of openness. Open Records Decision Nos. 630 (1994), 473 (1987).

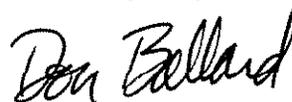
that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

In response to the request, the district must make a good-faith effort to relate the request to information in the district's possession and must help the requestor to clarify his request by advising him of the types of information available. We note that if a request for information is unclear, a governmental body may ask the requestor to clarify the request. Gov't Code § 552.222(b); *see also* Open Records Decision No. 561 (1990) at 8, 333 (1982) (ten-day deadline does not begin to run during the time that the requestor and the governmental body attempt to resolve access to the records informally and there is legitimate confusion as to the scope of the request).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 113851

cc: Ms. Christi O'Connor
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