



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2003

Ms. Beverly R. Rickhoff
Escamilla & Poneck, Inc.
P.O. Box 200
San Antonio, Texas 78291-0200

OR2003-8659

Dear Ms. Rickhoff:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192044.

The Edgewood Independent School District (the "district"), which you represent, received a request for an investigative report regarding a specified internal investigation of a named individual. You claim that the submitted information is excepted from disclosure under sections 552.102 and 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We first note that you state that the district does not possess the exact information requested. The Public Information Act (the "Act") compels disclosure of public information that is in existence, but it does not require a government entity to prepare or assemble new information in response to a request. See Gov't Code § 552.002(a); *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 268 (Tex. Civ. App.—San Antonio 1978, writ dismissed) (ruling that government agency could not be required to make copies of documents no longer in its possession). However, you inform us that the district does possess other information related to the named individual. You inform us that the district has contacted the requestor in an effort to clarify the request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). You state that, as of the date you requested this ruling, the district had not received a response to its request for clarification. Because the district is awaiting a response, its deadline for seeking a ruling from this office has been tolled. See Open Records Decision No. 663 (1999) (determining that during interval in which governmental body and requestor

communicate in good faith to narrow or clarify request, the Act permits tolling of deadlines imposed by section 552.301).

Having considered your representations, we find that the district has no further obligations under chapter 552 of the Government Code with regard to this request for information until such time as it receives clarification of the request. Accordingly, we need not address the exceptions to disclosure that you raise. *See* Open Records Decision No. 663 at 5. We note, however, that a governmental body's request for clarification or narrowing does not give that governmental body an additional ten full business days from the date the requestor responds to the clarification request. Instead, "the ten-day deadline is tolled during the process but resumes, upon receipt of the clarification or narrowing response, on the day that the clarification is received." ORD 663 at 5. At such time as the district receives clarification of the request, the district's deadlines for requesting a ruling from this office will resume, and the district must request another decision under section 552.301 of the Government Code with regard to any responsive information that the district seeks to withhold. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 664 (2000).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/JEB/sdk

Ref: ID# 192044

Enc: Submitted documents

c: Ms. McNelly Torres
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