



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2005

Ms. Charlotte A. Drew
The Drew Law Firm, P.L.L.C.
Lakeside Professional Building
14884 Highway 105 West
Montgomery, Texas 77356

OR2005-10556

Dear Ms. Drew:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 236751.

The Magnolia Volunteer Fire Department (the "department"), which you represent, received a request for "a copy of the list of trips taken by the current Fire Chief . . . , the location, reason and total cost of [the] trip to the [department]." You inform us that the department does not maintain a "list of trips."¹ You also believe that all or part of the submitted information may not be responsive to the request, and assert that the request includes a factual question to which the department is not required to respond. Otherwise, you contend that, to the extent the submitted information is responsive to the request, an account number included therein is excepted from disclosure under section 552.136 of the Government Code. We have considered your arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. Gov't Code § 552.304 (providing that member of public may submit comments stating why information should or should not be released).

¹The Act does not require a governmental body to disclose information that did not exist at the time the request was received, nor does it require a governmental body to prepare new information in response to a request. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 416 at 5 (1984).

First, you contend that the request for the “reason for each trip” requires the department to answer a factual question. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, the Act requires a governmental body to make a good-faith effort to relate a request to information that it holds. *See* Open Records Decision No. 561 at 8 (1990) (construing statutory predecessor). Thus, to the extent the department maintains records that pertain to the reasons for the fire chief’s travel, such information must be released unless it is otherwise excepted from disclosure under the Act. In this regard, if any such information existed on the date the department received the request for information, such information must be released to the requestor at this time. *See* Gov’t Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

We next address your assertion that the submitted records may not be responsive to the request for information. As stated above, the Act requires a governmental body to make a good-faith effort to relate a request to information that it holds. *See* Open Records Decision No. 561 at 8 (1990). The documents you have submitted for our review relate to the fire chief’s travel, which is the general subject matter of the information sought by the requestor. Based on our review, we find that the department has made a good-faith effort to relate the request for information to the submitted documents that the department maintains. However, you also state that a portion of the financial information in these records, which you have highlighted, is not related to the travel records sought by the requestor. Based on your representation that this information is not responsive to the request for information, we do not address its public availability, and the department need not release it to the requestor. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed). However, we find that the remaining information is responsive and will therefore address your arguments with respect to this information.

Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. We therefore agree that the department must withhold the account number in the submitted records pursuant to section 552.136. The remaining responsive information in the submitted documents must be released.

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 ten 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/krl

Ref: ID# 236751

Enc. Submitted documents

c: Mr. Russell W. Copeland
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(w/o enclosures)