



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2007

Ms. Karen Rabon
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2007-13589

Dear Ms. Rabon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 292961.

The Office of the Attorney General (the "OAG") received a request for the invoices from the Texas Department of Public Safety's (the "department") outside counsel relating to contract number 2005-405-0008 and the contract's amendments and extensions. The OAG does not object to release of the information but has submitted the request for a decision on behalf of the department. The department received the same request and states it has released the information it maintains. However, the department argues the submitted information is not responsive to the request because it pertains to a different contract number, and alternatively asserts the information is excepted from disclosure pursuant to section 552.107 of the Government Code, Texas Rule of Evidence 503, and Texas Rule of Civil Procedure 192.5.¹ We have considered the department's arguments and reviewed the submitted information.

¹The department asserts the information is protected under section 552.101 of the Government Code in conjunction with the attorney-client privilege pursuant to Texas Rule of Evidence 503 and the work product privilege pursuant to Texas Rule of Civil Procedure 192.5. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. It does not encompass the discovery privileges found in these rules because they are not constitutional law, statutory law, or judicial decisions. Open Records Decision No. 676 at 1-2 (2002).

We agree the submitted information is not responsive to the request because the fee bills were charged under contract numbers different from the contract number specified in the request. Thus, this decision does not address the availability of the submitted information and the OAG need not release it.

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, 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); *Tex. 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 292961

Enc: Submitted documents

c: Mr. Jake Bernstein
Executive Editor
The Texas Observer
307 West 7th Street
Austin, Texas 78701
(w/o enclosures)

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001
(w/o enclosures)