



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 26, 2008

Ms. Angela G. Bishop
Region 4 Education Service Center
7145 West Tidwell Road
Houston, Texas 77092-2096

OR2008-03952

Dear Ms. Bishop:

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# 306352.

The Region 4 Education Service Center (the "center") received a request for the proposal submitted by Tremco/WTI ("Tremco") in response to a specified RFP. While you raise sections 552.101, 552.104, and 552.110 of the Government Code as possible exceptions to disclosure for the requested information, you make no arguments as to whether the requested information is excepted from disclosure under these sections. You indicate that the release of the requested information may implicate the proprietary interests of Tremco. Accordingly, you have notified Tremco of the request and of its opportunity to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Tremco and have reviewed the submitted arguments and information.

Initially, we note that Tremco has submitted information it seeks to withhold from disclosure; however, the center did not submit this information. This ruling does not address information that was not submitted by the center and is limited to the information submitted as responsive by the center. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

Next, we note that the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2008-03530 (2008). We presume that the pertinent facts and circumstances have not changed since the issuance of this prior ruling. As the requested information is identical to the information previously requested and ruled upon by this office, we conclude that the center may continue to rely on this ruling as a previous determination and withhold or release this information in accordance with Open Record Letter No. 2008-03530. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As we are able to make this determination, we need not address Tremco's arguments under section 552.110 of the Government Code.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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 10 calendar days of the date of this ruling.

Sincerely,



Jordan Johnson
Assistant Attorney General
Open Records Division

JJ/jb

Ref: ID# 306352

Enc. Submitted documents

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