



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2011

Mr. Mark Kennedy
ADA, Chief Civil Division
Hays County Criminal District Attorney
111 East San Antonio Street, Suite 204
San Marcos, Texas 78666

OR2011-08808

Dear Mr. Kennedy:

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# 421945.

The Hays County Clerk (the "county") received a request for ten categories of information pertaining to a specified incident. You state that the county does not maintain nine of the ten categories of information responsive to this request. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the information you submitted is subject to section 552.022 of the Government Code, which provides in pertinent part

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

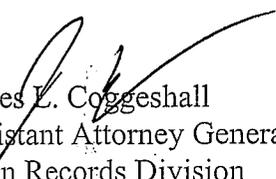
(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of a contract relating to the expenditure of funds by the county and is, therefore, subject to section 552.022(a)(3). The county may only withhold this document if it is made confidential under "other law." Section 552.103 of the Government Code is a discretionary exception that protects a governmental body's interest. See *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not other law that makes information confidential for the purposes of section 552.022. Consequently, the agreement you submitted may not be withheld under section 552.103 of the Government Code. As you raise no further exceptions to disclosure, the information at issue must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 421945

Enc. Submitted documents

c: Requestor
(w/o enclosures)