



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 4, 2011

Mr. Marc Allen Connelly
Deputy General Counsel
Texas Department of State Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2011-14338

Dear Mr. Connelly:

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# 432371 (DSHS File# 19209/2011).

The Texas Department of State Health Services (the "department") received a request for every department data dictionary. You claim the requested information is either not subject to the Act or excepted from disclosure under sections 552.101 and 552.139 of the Government Code. You also state the department notified the following interested third parties of the department's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released to the requestor: 3M Gulf Ltd. ("3M"); Diem Technologies; Ektron Inc.; Entitlement Case Management; EOS International Headquarters; Expert Health Data Programming, Inc.; Genesis Systems, Inc. ("Genesis"); halSystems ("halSystems"); K2; MEDIWARE Information Systems, Inc.; Netsimplicity; Netsmart; Oxbow Data Management Systems, LLC and/McCallie Associates, Inc. ("McCallie"); PerkinElmer, Owner of Lab Works & Newborn Screening; Scientific Technologies Corporation ("STC"); Shady Grove Systems, LLC; System13, Inc. ("System13"); Tek Data; and Upp Technology, Inc. ("Upp"). *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 correspondence from 3M, Genesis, halSystems, STC, System 13, McCallie, and Upp objecting to the release of their information. We have also received comments submitted by

the requestor's attorney. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

Initially, we note the request for information was specifically for

the data dictionary of every database maintained, collected, or in the possession of . . . the department. . . . By 'data dictionary' I mean a record describing the data fields, their definitions and their relationships in the database. This may consists of a simple database schema or, if it exists, a more complex document."

You have submitted information that does not consist of a data dictionary. Thus, the submitted information that does not consist of a data dictionary is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request.² *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).

You assert the submitted responsive information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, 552.021. Section 552.002(a) defines "public information" as

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). Thus, virtually all the information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information a governmental body does not physically possess, if the information is collected,

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.

²As our ruling on the nonresponsive information is dispositive, we do not address the submitted arguments to withhold this information.

assembled, or maintained for the governmental body and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987).

In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. *See* ORD 581 at 6 (construing predecessor statute). “Documentation” is defined in ORD 581 as

an English language text describing various aspects of a program, such as how the program was written and how it may be used and maintained. Such documentation may be used either as a guide for users of the program, as a guide for programmers maintaining the computer system, or as a guide for future programmers who wish to understand the logic used in writing the program that the documentation describes. The nature and extent of documentation may vary depending on the purpose for which it is prepared.

Id. at 3. You argue data dictionaries “describe aspects of a database that are used as guides by database programmers who maintain information systems, specifically the database” and they “are also used as guides for future database programmers who wish to understand the logic used in developing relationships between data and data tables.” *See id.* Thus, you indicate the requested data dictionaries consist of documentation that is not the kind of information made public by section 552.002 of the Act. *See id.* Based on your representations and our review of the information at issue, we conclude the responsive data dictionaries are not public information as defined by section 552.002 of the Government Code. *See* Gov't Code § 552.002. Therefore, the department is not required to release any data dictionary to the requestor.³

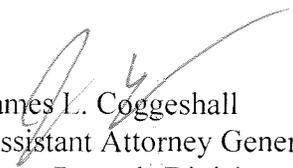
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

³As our ruling on the requested data dictionaries is dispositive, we do not address the submitted arguments to withhold this information under the Act.

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/ag

Ref: ID# 432371

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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