



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 14, 2003

Ms. Alice Caruso
Assistant Disclosure Officer
Information Release
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2003-8193

Dear Ms. Caruso:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 190949.

The Texas Workforce Commission (the "commission") received a request for the "successful response to the TWC's recent bid for WIA Training Provider Certification Internet System(RFO 2003-4051)." Although the commission does not take a position with regard to the release of the requested information, the commission claims that the information may be subject to third party confidentiality claims. Pursuant to section 552.305(d) of the Government Code, the commission notified an interested third party, EpicEdge, of the commission's receipt of the request and of EpicEdge's right to submit arguments to this office as to why information relating to EpicEdge should not be released to the requestor. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act (the "Act") in certain circumstances).* We have considered your representations and have reviewed the submitted information.

We note that it is implicit in several provisions of the Act that the Act applies only to information already in existence. *See Gov't Code §§ 552.002, .021, .227, .351.* The Act does not require a governmental body to prepare new information in response to a request. *See Attorney General Opinion H-90 (1973); see also Economic Opportunities Dev. Corp. of San Antonio v. Bustamante, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ*

dism'd); Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 416 at 5 (1984), 342 at 3 (1982), 87 (1975). In addition, a governmental body must only make a good faith effort to relate a request to information which it holds. *See* Open Records Decision No. 561 at 8 (1990). Further, a governmental body is not required to comply with a standing request for information to be collected or prepared in the future. *See* Attorney General Opinion JM-48 (1983); *see also* Open Records Decision No. 476 at 1 (1987).

You inform us that the commission received the request for information on August 11, 2003. You also inform us that the winning bidder for this Request for Proposals was not selected until September 4, 2003. Therefore, we find that on the date that the commission received this request, the commission did not possess any information that was responsive to the request. Accordingly, we conclude that the commission is not required to comply with this request for information and need not release any information to the requestor in response to the request.

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).

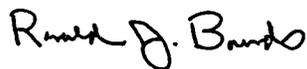
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, 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 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,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/sdk

Ref: ID# 190949

Enc. Submitted documents

cc: Mr. Ramesh Naguboina
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(w/o enclosures)

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