



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 5, 2006

Ms. Kimberly A. Frost
Vinson & Elkins
2801 Via Fortuna, Suite 100
Austin, Texas 78746-7568

OR2006-07086

Dear Ms. Frost:

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# 253419.

The Guadalupe-Blanco River Authority (the "GBRA"), whom you represent, received a request for "[a]ll contracts with and billings by each of the scientists, engineers, consultants, attorneys, public relations firms that have worked on an/or [sic] are working on the Lower Guadalupe Water Supply Project from the inception of the Project through the present time." The requestor subsequently narrowed her request stating that she wished the "attorney fee bills be redacted to eliminate the narrative descriptions and only fees be made available[.]" You state that the GBRA is releasing a portion of the information at issue with redactions pursuant to the previous determination issued by this office in Open Records Letter No. 2004-4419 (2004). You also state that the GBRA has previously provided the requestor with information responsive to a portion of the request, and the requestor has been notified of this fact pursuant to section 552.232 of the Government Code. *See Gov't Code § 552.232* (governmental body shall certify to requestor that copies of all or part of requested information, as applicable, were previously furnished to requestor). You claim that portions of the submitted fee bills are excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also considered comments

¹ We assume that 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 that those records contain substantially different types of information than that submitted to this office.

submitted by the requestor. *See* Gov't Code § 552.304 (providing that persons may submit comments stating why information should or should not be released).

Initially, you inform us that a portion of the responsive information was the subject of a previous ruling from this office. In Open Records Letter No. 2004-4419 this office determined that the submitted information may be withheld pursuant to sections 552.103 and 552.107 of the Government Code. You state that the four criteria for a "previous determination" established by this office in Open Records Decision No. 673 (2001) have been met.² Accordingly, we conclude that the GBRA may continue to rely on our decision in Open Records Letter No. 2004-4419 with respect to the information requested in this instance that was previously ruled upon in that decision. *See* Gov't Code § 552.301(f); Open Records Decision No. 673 (2001).

Next, we note that the information for which the GBRA seeks exception is not responsive to the present request. The requestor submitted comments stating that "the attorney fee bills be redacted to eliminate the narrative descriptions and only fees be made available[.]" Accordingly, any fee bill narrative is not responsive to the present request. This ruling does not address the public availability of information that is not responsive to the request, and the GBRA need not release such information in response to the request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed). As our ruling is dispositive, we need not address your arguments against disclosure.

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).

² The four criteria for this type of "previous determination" are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general's prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. *See* Open Records Decision No. 673.

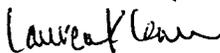
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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); *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,



Lauren Kleine
Assistant Attorney General
Open Records Division

LEK/eb

Ref: ID# 253419

Enc. Submitted documents

c: Ms. Mary W. Carter
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(w/o enclosures)