



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 8, 2017

Mr. Brett Norbraten  
Open Records Attorney  
Texas Department of Aging and Disability Services  
Texas Health and Human Services Commission  
P.O. Box 149030  
Austin, Texas 78714-9030

OR2017-09852

Dear Mr. Norbraten:

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# 656843 (DADS #2017SOLEG0032).

The Texas Department of Aging and Disability Services (the "department") received a request for specified sign-in sheets and a specified anonymous report.<sup>1</sup> The department claims the submitted information is excepted from disclosure under section 552.103 of the Government Code.<sup>2</sup> We have considered the exception the department claims and reviewed the submitted representative sample of information.<sup>3</sup>

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<sup>1</sup>As the department did not submit a copy of the written request for information, we take our description of the request from the department's brief.

<sup>2</sup>Although the department also claims section 552.101 of the Government Code, it makes no argument under this exception. Thus, we do not address section 552.101. *See* Gov't Code §§ 552.301, .302.

<sup>3</sup>We 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.

Initially, we note the department has not submitted the specified anonymous report. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we must address the department's procedural obligations under the Act. Pursuant to 552.301(b), a governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days of receiving the written request. Pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301. The department states it received the request on February 8, 2017. We note this office does not count holidays as business days for the purposes of calculating a governmental body's deadlines under the Act. Thus, the department was required to request a decision from this office pursuant to section 552.301(b) by February 23, 2017. The department hand-delivered the information required by section 552.301(b) to this office on March 1, 2017. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Further, as of the date of this letter, the department has not submitted to this office the written request for information. Consequently, we find the department failed to comply with the procedural requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). Although the department claims section 552.103 of the Government Code for the submitted information, we find the department has failed to establish a compelling reason to address its claim under this exception. Accordingly, the department must release the submitted information.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 656843

Enc. Submitted documents

c: Requestor  
(w/o enclosures)