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ATTORNEY GENERAL OF TEXAS

March 12, 2020

Mr. C.J. Roell
Acting General Counsel
Texas Facilities Commission
P.O. Box 13047
Austin, Texas 78711-3047

OR2020-07914

Dear Mr. Roell:

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# 815852.

The Texas Facilities Commission ("TFC") received a request for information pertaining to a specified project.¹ TFC states it has released some of the requested information, but claims the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the claimed exception and reviewed the submitted information. We have also received correspondence from Flintco objecting to the release of some of the requested information. *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).

Initially, we note Flintco seeks to withhold a contract that TFC did not submit for our review. This ruling does not address information beyond what TFC has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information TFC submitted as responsive to the request for information. *See id.*

Next, we must address the procedural obligations of TFC under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow

¹ As TFC has not submitted a copy of the request for information, we take our description from its brief.

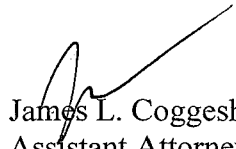
in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the written request for information. *See* Gov't Code § 552.301(e)(1)(B). TFC inform us it received the request for information on December 17, 2019. However, as of the date of this ruling, TFC has not submitted to this office a copy of the request. Therefore, TFC failed to comply with section 552.301(e).

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). We find TFC has failed to establish a compelling reason to address section 552.103. Therefore, TFC 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 815852

Enc. Submitted documents

c: Requestor
(w/o enclosures)