



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 29, 2022

Mr. Jonathan Miles  
Open Records Attorney  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711-3247

OR2022-22324

Dear Mr. Miles:

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# 962518 (Ref. No. A03242022.0450014).

The Texas Health and Human Services Commission (the "commission") received a request for certain information pertaining to a specified survey report. You claim the submitted information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

We must address the commission's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) 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*

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<sup>1</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.

*id.* § 552.301(e). In this instance, the board received the clarified request for information on April 7, 2022. *See City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed). We understand the commission was closed on April 15, 2022, in observance of Good Friday, and operated with a skeleton crew on April 21, 2022, in observance of San Jacinto Day. This office does not count the date the request was received or holidays, including skeleton crew days observed by a governmental body, for purposes of calculating a governmental body's deadlines under the Act. Accordingly, the commission was required to provide the information required by section 552.301(b) by April 25, 2022, and the information required by section 552.301(e) by May 2, 2022. However, the envelope in which the commission provided the information required by section 552.301 was submitted via interagency mail on May 19, 2022. *See Gov't Code* § 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). Consequently, we conclude the commission failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

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, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although you claim section 552.111 of the Government Code for the information at issue, we find you have failed to establish a compelling reason to address your argument against disclosure of the information at issue. As no further exceptions to disclosure have been raised, the commission 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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/be

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)