



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 6, 2017

Mr. Jonathan Ellzey
Assistant District Attorney
Wichita County
900 Seventh Street
Wichita Falls, Texas 76301-2482

OR2017-12413

Dear Mr. Ellzey:

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# 660592 (ORR.1193).

Wichita County (the "county") received a request for a specified contract and specified reports or summaries for a specified time period. You state you have released some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Public Communications Services, Inc. ("Public"). Accordingly, you state, and provide documentation showing, you notified Public of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (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). We have reviewed the submitted information

Initially, we note a portion of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-03396 (2017). The prior ruling determined the county must release the information at issue. We have no indication there has been any change in the law, facts, or circumstances with respect to the information at issue. Accordingly, the county must rely on Open Records Letter No. 2017-03396 as a previous determination and release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of

previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address the remaining information, which is not subject to the prior ruling.

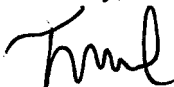
Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Public explaining why the remaining information should not be released. Therefore, we have no basis to conclude Public has a protected proprietary interest in the information at issue. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the county may not withhold the remaining information on the basis of any proprietary interest Public may have in the information.

In summary, the county must rely on Open Records Letter No. 2017-03396 as a previous determination and release the identical information in accordance with that ruling. The county must release the remaining 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, 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 660592

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)