



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 25, 2017

Ms. Sol M. Cortez
Assistant City Attorney
Office of the City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2017-21962

Dear Ms. Cortez:

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# 678334 (ORR# W048271-072017).

The City of El Paso (the "city") received a request for all purchase orders, invoices and contracts related to the El Paso International airport and Team Eagle Inc. ("Team Eagle") during a specified time period. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Team Eagle. Accordingly, you state, and provide documentation showing, you notified Team Eagle of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code §§ 552.304, .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 requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-11196 (2014). In Open Records Letter No. 2014-11196, we concluded the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with

common-law privacy and the information we marked under section 552.136 of the Government Code. We further concluded the city must release the remaining information in accordance with copyright law. We understand the law, facts, and circumstances on which the prior ruling was based have not changed. Accordingly, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the city must continue to rely on Open Records Letter No. 2014-11196 as a previous determination and withhold or 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 information is or is not excepted from disclosure). To the extent the submitted information is not identical to the information at issue in Open Records Letter No. 2014-11196, we will address the public availability of this information.

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 Team Eagle explaining why the remaining information should not be released. Therefore, we have no basis to conclude Team Eagle 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 city may not withhold the remaining information on the basis of any proprietary interest Team Eagle may have in the information.

In summary, the city must continue to rely on Open Records Letter No. 2014-11196 as a previous determination and withhold or release the identical information in accordance with that ruling. The city 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/sb

Ref: ID# 678334

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)