



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 31, 2018

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

OR2018-02093

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# 693851 (City ID# W049888-102417).

The City of El Paso (the "city") received a request for a specified purchase order and/or award; correspondence between city officials and a specified third party; specified reports and invoices during a specified time period; and specified checks or wire transfers during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 through 552.156 of the Government Code. We have considered the exceptions you claim.

Initially, we note some of the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-06669 (2017). In that ruling, we determined the city may withhold certain information under section 552.104(a) of the Government Code; must withhold certain information under section 552.136 of the Government Code; and must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, to the extent the requested information is identical to the information previously requested and ruled upon, the city must continue to rely on Open Records Letter No. 2017-06669 as a previous determination and withhold or release the identical information at issue 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). However, to the extent the requested information is not subject to the previous ruling, we will consider the exceptions you raise.

Next, we must address the city's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. *See* Gov't Code § 552.301. 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) 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 id.* § 552.301(e). You state the city received the request for information on October 24, 2017. You further state the city received a clarified request on October 30, 2017. *See City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). However, as of the date of this letter, you have not submitted for our review comments explaining why the stated exceptions apply, or a copy or representative sample of the information requested. Consequently, we find the city failed to comply with the requirements of 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, 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 raise exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the remaining requested information released pursuant to section 552.302.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon, the city must continue to rely on Open Records Letter No. 2017-06669 as a previous determination and withhold or release the identical information at issue in accordance with that ruling. To the extent the remaining requested information was not previously ruled on, the city must release it pursuant to section 552.302

of the Government Code. If you believe the information may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/tdw

Ref: ID# 693851

c: Requestor