



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 26, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2019-17475

Dear Mr. Kopp:

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# 772121 (COSA File No. W233951).

The City of San Antonio (the "city") received a request for drafts of a specified investigation report provided to the city pertaining to a deceased individual. Although the city takes no position as to whether the submitted information is excepted under the Act, the city states release of the submitted information may implicate the interests of the National Institute of Occupational Safety and Health ("NIOSH").¹ Accordingly, the city states, and provides documentation showing, it notified NIOSH of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have reviewed the submitted information.

We note an interested party may submit comments under section 552.304 to explain its reasons as to why information relating to that party should be withheld from public disclosure. *See id.* As of the date of this letter, we have not received comments from NIOSH

¹We note the city failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b). Nonetheless, third party interests can provide compelling reasons to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302; Open Records Decision No. 150 at 2 (1977).

explaining why the submitted information should not be released. Therefore, we have no basis to conclude NIOSH has protected interests in the submitted information. Accordingly, the city may not withhold the submitted information on the basis of any interest NIOSH may have in the information. As no exceptions to disclosure have been raised, the city 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 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,



Lecelle Clarke
Attorney
Open Records Division

LC/be

Ref: ID# 772121

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)