



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 25, 2008

Mr. Francisco Castellanos
Cameron Works
245 East Levee
Brownsville, Texas 78520

OR2008-05593

Dear Mr. Castellanos:

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#307044.

The Cameron Works Workforce Center ("Cameron Works") received a request for information pertaining to the successful applicant for the position of program specialist with United Migrant Opportunity Services, Inc. ("UMOS"). We understand you to assert that the requested information is not subject to the Act. We have also received correspondence from UMOS. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments.

Section 552.002(a) of the Government Code states as follows:

(a) In this chapter, "public information" means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body owns the information or has a right of access to it.

Gov't Code § 552.002. Cameron Works states that it has a contract with UMOS to operate its four workforce centers, and it does not have a copy of the information requested. Cameron Works further states that "access to the requested application is not part of the terms and

conditions of the contract.” The test for whether the Act applies to information held by a third party is whether: (1) the requested information relates to the governmental body’s official duties or business; (2) the third party acts as the agent of the governmental body in collecting the information; and (3) the governmental body has or is entitled to access to the information. Open Records Decision Nos. 558 (1990), 499 (1986), 462 (1987).

In this instance, you state that Cameron Works does not have a copy of the requested information. In addition, UMOS asserts that its contract with Cameron Works “is an arms-length service agreement” and that Cameron Works does not have access to the requested information. UMOS has submitted a copy of the contract for our review. Based upon Cameron Works’ and UMOS’s representations that Cameron Works does not have access to the information at issue, as well as our review of the submitted contract, we determine that this information is not public information for purposes of section 552.002. Therefore, such information need not be provided in response to this request.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

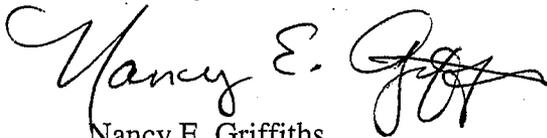
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nancy E. Griffiths
Assistant Attorney General
Open Records Division

NEG/jb

Ref: ID# 307044

Enc. Submitted documents

c: Mr. Jose P. Baldonado
748 North Vermillion
Brownsville, Texas 78521
(w/o enclosures)

Mr. Leonardo Martinez
Vice President of Operations and
Human Resources Director
United Migrant Opportunity Services, Inc.
P.O. Box 04129
Milwaukee, Wisconsin 53204
(w/o enclosures)