



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2010

Ms. Bertha A. Ontiveros  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901

OR2010-10148

Dear Ms. Ontiveros:

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# 385983.

The City of El Paso (the "city") received a request for travel records for certain city employees from January 1, 2009, to the latest reporting period. We understand the city will release some responsive information, upon payment, to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.131 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of a business prospect. Accordingly, you notified the business prospect of the request and its right to submit arguments to this office as to why its information should not be released. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Section 552.131(b) of the Government Code provides as follows:

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business

prospect by the governmental body or by another person is excepted from [required public disclosure].

Gov't Code § 552.131(b). Section 552.131(b) protects information about a financial or other incentive that is being offered to a business prospect by a governmental body or another person. You state the city is currently discussing incentives to locate the business prospect within the city. You seek to withhold information that identifies the business prospect under section 552.131(b). However, section 552.131(b) only excepts financial incentive information offered to the business prospect by a governmental body; it does not except the identity of the business prospect. Consequently, the city may not withhold the business prospect's identity under section 552.131(b).

An interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, the notified business prospect has not submitted comments to this office explaining why any portion of the submitted information relating to it should not be released to the requestor. Thus, we have no basis to conclude the release of any portion of the submitted information would implicate this company's interests, and no portion of the information may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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).

We note the submitted information contains a partial credit card number and a frequent flyer account number. Section 552.136 of the Government Code provides "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."<sup>1</sup> Gov't Code § 552.136. Upon review, we find the city must withhold the partial credit card number and frequent flyer number we marked under section 552.136.<sup>2</sup> As no other exceptions to disclosure are raised, the remaining information must be released.

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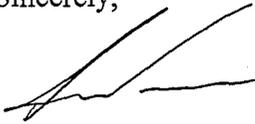
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including credit card numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 385983

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Mr. Tom Rumpitz  
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