



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 6, 2011

Ms. Bertha A. Ontiveros  
Assistant City Attorney  
Office of the City Attorney  
2 Civic Center Plaza, 9<sup>th</sup> Floor  
El Paso, Texas 79901

OR2011-06281

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# 416860.

The City of El Paso (the "city") received a request for the winning proposal for Solicitation No. 2009-163, Security Guard Services for City Municipal Building. Although the city takes no position as to the disclosure of the submitted information, you indicate release of this information may implicate the proprietary interests of a third party. Thus, pursuant to section 552.305 of the Government Code, the city has notified Ruiz Protective Service ("Ruiz") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(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.

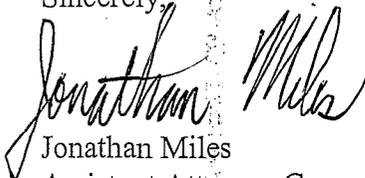
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Ruiz explaining why the submitted information should not be released. Therefore, we have no basis to conclude Ruiz has a protected proprietary interest in the submitted information. *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 submitted information based upon the proprietary interests of Ruiz. As no exceptions against the disclosure of the submitted information have been raised, it must be released.

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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 416860

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Al Campos  
West Texas Area Manager  
Ruiz Protective Service, Inc.  
5530 East Paisano  
El Paso, Texas 79905  
(w/o enclosures)