



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2011

Ms. Elizabeth M. Ruhmann
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2011-18737

Dear Ms. Ruhmann:

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# 440006.

The City of El Paso (the "city") received a request for information relating to bidding to provide security guard services for the Sun Metro facilities, including the current contract, the winning proposal, and bid tabulations and/or scoring evaluation sheets. Although you take no position on the public availability of the submitted information, you believe the information at issue may implicate the interests of Ruiz Protective Service, Inc. ("Ruiz"). You inform us the city notified Ruiz of this request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released.¹ We have reviewed the information you submitted. We assume the city has released any other information that is responsive to this request, to the extent such information existed when the city received the request. If not, then any such information must be released immediately.² See Gov't Code §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

¹See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

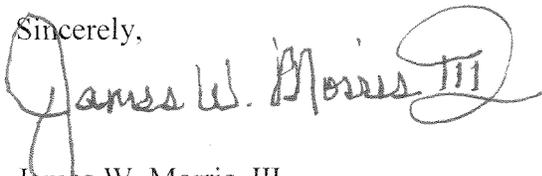
²We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

We note an interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from Ruiz. Thus, because Ruiz has not demonstrated any of the submitted information is proprietary for purposes of the Act, the city may not withhold any of the information at issue on the basis of any interest Ruiz may have in the information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Therefore, as the city does not claim an exception to disclosure, the submitted information 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, 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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, stylized "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bs

Ref: ID# 440006

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Mr. Alberto Campos
Ruiz Protective Service, Inc.
5530 East Paisano Drive
El Paso, Texas 79905
(w/o enclosures)