



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2012

Mr. Jerry R. Wallace
Counsel for the City of Socorro
Blano Ordoñez Mata & Wallace, P.C.
5715 Cromo Drive
El Paso, Texas 79912

OR2012-07626

Dear Mr. Wallace:

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# 454116.

The City of Socorro (the "city"), which you represent, received a request for a specified settlement agreement, including the amount paid to a named individual, and a specified city ordinance. You state you have released a mediated settlement agreement and the requested city ordinance, but you further state the city does not have any other information responsive to the request. We have considered your arguments and reviewed the submitted information.

You argue that the city does not possess additional responsive documents, as any formal settlement agreement and any payment to the named individual would have been handled by Texas Municipal League Risk Pool ("TML"). Section 552.021 of the Government Code provides for public access to "public information." See Gov't Code § 552.021. Section 552.002(a) of the Government Code defines "public information" as "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." *Id.* § 552.002(a). Virtually all of the information that is in a governmental body's physical possession constitutes public information that is subject to the Act. *Id.* § 552.002(a)(1); see also Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Thus, information that

is collected, assembled, or maintained by a third party may be subject to disclosure under the Act if a governmental body owns or has a right of access to the information. *See* Open Records Decision No. 462 (1987). The fact that a request for information might be more appropriately directed to another governmental body does not mean the information may be withheld by a governmental body to which a request is properly directed. Attorney General Opinion JM-266 at 3 (1984).

In this case, the settlement agreement and payment information at issue arose out of a suit against the city. The requested settlement agreement and payment information were created by TML, the city's insurance company, pursuant to the city's indemnity agreement, and on behalf of the city. Thus, we find the records were created for the city. Accordingly, the information at issue meets the definition of "public information" under the Act. Furthermore, we find the city has a right of access to the information at issue, and this information is maintained on behalf of the city in connection with the transaction of official city business. Therefore, we find that the information at issue is subject to the Act, and the city is required to respond to the request for information. As you raise no exceptions to disclosure of the information at issue, it must be released. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a large, stylized flourish extending to the right.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/som

Ref: ID# 454116

Enc. Submitted documents

c: Requestor
(w/o enclosures)