



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 10, 2012

Ms. Nancy Nelson
Associate Vice President
El Paso Community College
P.O. Box 20500
El Paso, Texas 79998-0500

OR2012-16197

Dear Ms. Nelson

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# 467599 (ORR-11-34).

The El Paso Community College District (the "college") received a request from two requestors for all settlement agreements between the college and any employees, consultants, advisors, contractors, and other individuals during a specified time period. You claim the submitted information is excepted from disclosure under section 552.107(2) of the Government Code. You indicate release of the information may implicate the privacy interests of third parties. Accordingly, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information). We have considered the exception you claim reviewed the submitted information.

We note portions of the submitted information are subject to section 552.022 of the Government Code. Section 552.022 provides, in pertinent part, as follows:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(18) a settlement agreement to which a governmental body is a party.

Gov't Code § 552.022(a)(18). The submitted information contains executed settlement agreements to which the college is a party. Therefore, pursuant to section 552.022(a)(18), the college must release the settlement agreements we have marked unless they are confidential under the Act or other law. You raise section 552.107(2) of the Government Code for this information. Section 552.107(2) allows a governmental body to withhold information if "a court by order has prohibited disclosure of the information." *Id.* § 552.107(2). However, section 552.022(b) provides that a court may not order a governmental body to withhold from public inspection any category of information described by section (a) unless the category of information is expressly made confidential under the Act or other law. *Id.* § 552.022(b). Because section 552.022(b) prohibits a court from ordering the withholding of documents subject to section 552.022, we conclude the college may not withhold the information at issue under section 552.107(2). We will address your argument under section 552.107(2) for the information not subject to section 552.022.

As noted above, section 552.107(2) of the Government Code provides that information is excepted from disclosure if "a court by order has prohibited disclosure of the information." *Id.* § 552.107(2). In support of your argument, you state the agreements contain confidentiality clauses prohibiting the parties from disclosing the terms of the agreements. However, you do not inform us a court has prohibited disclosure of the remaining information by order. We, therefore, conclude the college may not withhold any of the remaining information under section 552.107(2) of the Government Code. As you raise no further 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,



Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/dls

Ref: ID# 467599

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)