



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

May 9, 2003

Ms. Florence R. Upton
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2003-3141

Dear Ms. Upton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 180816.

The City of San Antonio (the "city") received a request for information regarding public expenditures in calendar year 2002. Specifically, the requestor seeks the payee name, address, and cumulative total dollar amount paid for any payee other than a city employee paid a cumulative amount greater than \$10,000 during calendar year 2002. You have submitted documentation to this office indicating that some responsive information has been released to the requestor. You claim, however, that portions of the responsive information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We begin by noting that the submitted records consist of information subject to section 552.022 of the Government Code. Section 552.022 provides in pertinent part:

- (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 under this chapter unless they are expressly confidential under other law:

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

The records at issue relate to the expenditure of funds by a governmental body. Thus, pursuant to section 552.022(a)(3), the city may only withhold the submitted information if it is confidential under other law.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This exception encompasses information that other statutes make confidential. You advise that the city is a provider agency administering the Community Managed Personal Assistance Services Program (“CMPAS”). You indicate that CMPAS is a disability assistance program administered in conjunction with the Texas Department of Human Services (“DHS”). *See generally* 40 T.A.C. § 49.3 (describing provider agencies). You contend that information relating to the payment of funds in connection with the CMPAS program is confidential pursuant to section 12.003 of the Human Resources Code. Section 12.003 of the Human Resources Code provides:

(a) Except for purposes directly connected with the administration of the department’s assistance programs, it is an offense for a person to solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, *or any information concerning*, persons applying for or receiving assistance if the information is directly or indirectly derived from the records, papers, files, or communications of the department or acquired by employees of the department in the performance of their official duties. [Emphasis added.]

In Open Records Decision No. 584 (1991), this office concluded that “[t]he inclusion of the words ‘or any information’ juxtaposed with the prohibition on disclosure of the names of the department’s clients clearly expresses a legislative intent to encompass the broadest range of individual client information, and not merely the clients’ names and addresses.” Consequently, it is the specific information pertaining to individual clients, and not merely the clients’ identities, that is made confidential under section 12.003. *See* Hum. Res. Code § 21.012(b) (governmental body other than DHS that holds client information must provide safeguards restricting use or disclosure of information concerning applicants for or recipients of assistance programs to purposes directly connected with administration of programs); Open Records Decision No. 166 (1977). Because the city is a provider agency administering CMPAS, an assistance program administered by DHS, the city must comply with applicable federal and state regulations and statutes. *See* 40 T.A.C. § 49.3. You have highlighted information that you state pertains to individual clients of the CMPAS program. We conclude that the portions of the submitted information pertaining to clients of the CMPAS program are confidential pursuant to sections 12.003 and 21.012 of the Human Resources Code. We have marked the information that the city must withhold pursuant to

section 552.101 of the Government Code in conjunction with sections 12.003 and 21.012 of the Human Resources Code. The remainder of the submitted information does not constitute individual client information and must be released to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 1808196

Enc: Submitted documents

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(w/o enclosures)