



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 15, 2008

Ms. Catherine Zellers
City Attorney's Office
City of Weatherford
P.O. Box 255
Weatherford, Texas 76086

OR2008-14127

Dear Ms. Zellers:

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# 324730.

The City of Weatherford (the "city") received a request for (1) the city's contract for electricity; (2) general obligation bond information pertaining to a specified project; and (3) work orders pertaining to a specified incident. You state that you have released some of the responsive information to the requestor. You claim that the requested contract is excepted from disclosure under section 552.133 of the Government Code.¹ AEP Energy Partners, Inc., an interested third party, asserts in correspondence to this office that its information is excepted under sections 552.110 and 552.133 of the Government Code. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 considered the submitted arguments and reviewed the submitted information.

Initially, we note that you seek to withhold a copy of resolution 2000-111, which was adopted by the Weatherford Municipal Utility Board of Trustees under the Act; however, the

¹Although the city asserts that some of the information is excepted from disclosure under section 552.133 in conjunction with section 552.101 of the Government Code, we note that the exceptions in the Act are not law that makes information confidential for purposes of section 552.101.

requestor has not asked for this information. Accordingly, Exhibit C, which contains this resolution, is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information in response to this request.

We next note that the requested contract was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2008-12254 (2008). In that ruling, we concluded that the city may withhold the submitted contract under section 522.133 of the Government Code. As we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the city may continue to rely on that ruling as a previous determination and withhold the information at issue in accordance with Open Records Letter No. 2008-12254. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Because our determination on this issue is dispositive, we need not address the submitted arguments against disclosure.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 challenge 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 Office of the Attorney General 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. 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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/ma

Ref: ID# 324730

Enc: Submitted documents

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