



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2009

Ms. Dylbia L. Jefferies
Cameron County Commissioners Court
Civil Legal Division
1100 East Main Street
Brownsville, Texas 78520

OR2009-14446

Dear Ms. Jefferies:

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# 356684.

The Cameron County Auditor's Office (the "auditor") received a request for documents relating to the expenditure of public funds in a specified criminal case from September 7, 2007 to the date of the request. You claim that the submitted information is excepted from disclosure under section 552.107(2) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that a portion of the submitted information is subject to section 552.022 of the Government Code, which provides in relevant part:

[T]he following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

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

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(3), (17). The submitted documents include account information, invoices, and checks that are subject to section 552.022(a)(3), as well as unsealed orders that have been filed with a court that are subject to section 552.022(a)(17). This information may only be withheld if it is "expressly confidential under other law[.]" The auditor raises section 552.107(2), which allows a governmental body to withhold information if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). However, section 552.022(b) provides:

(b) A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is expressly made confidential under other law.

Gov't Code § 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 auditor may not withhold the information subject to section 552.022 pursuant to section 552.107(2). However, sections 552.101 and 552.136 of the Government Code constitute "other law" that makes information confidential for the purposes of section 552.022.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by constitutional law. You have submitted correspondence from the judge presiding over the case at issue stating that the auditor will be receiving certain Ex Parte Orders from his court for payment of investigations, experts, and attorney fees pertaining to the case. He notes that these orders and their supporting documentation should not be public record until after the trial of the defendants is over. He states "[t]he defense argument is that if the State knows the details of the reason for payment then the defense strategy of the attorneys will be known to the State to the detriment of the defendants['] constitutional rights." Accordingly, the auditor must withhold the invoices, checks, and account information related to the Ex Parte Orders, which we have marked, under section 552.101 in conjunction with constitutional law in order to protect the constitutional rights of the defendants.

Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136. The auditor must withhold the account and routing numbers we have

marked on the checks associated with the unsealed orders for payment under section 552.136.

Finally, we address the Ex Parte Orders and their attachments, which are not subject to section 552.022(a)(17), for which you raise section 552.107(2) of the Government Code. As noted above, section 552.107(2) excepts from required public disclosure information if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). Accordingly, the auditor must withhold the Ex Parte Orders and their attachments, which we have marked, pursuant to section 552.107(2) of the Government Code.

In summary, the auditor must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with constitutional law. The auditor must also withhold the information we have marked pursuant to sections 552.107(2) and 552.136 of the Government Code. The remaining 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,



Lauren E. Kleine
Assistant Attorney General
Open Records Division

LEK/jb

Ref: ID# 356684

Enc. Submitted documents

c: Requestor
(w/o enclosures)