



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2009

Mr. Gary Grief
Deputy Executive Director
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630

OR2009-15036

Dear Mr. Grief:

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# 359198.

The Texas Lottery Commission (the "commission") received a request for contracts between the "[c]ommission and the Dallas Cowboys and the Houston Texans" and "contracts with the teams and sport leagues for the Texas Lottery games featuring the Texas Rangers, Houston Astros, Dallas Mavericks, San Antonio Spurs and Houston Rockets." You state you have released some of the information responsive to the request. You indicate that some of the submitted information may be excepted under section 552.110 of the Government Code, but take no position as to whether this information is excepted under those sections. You also state, and provide documentation showing, that you notified the interested third parties of the commission's receipt of the request for information and of their right to submit arguments to this office as to why the requested information should not be released to the requestor.¹ See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested

¹The notified third parties are Scientific Games, Inc. ("SGI"); Major League Baseball Properties (the "MLB"); NBA Properties, Inc. (the "NBA"); San Antonio Spurs, L.L.C. (the "Spurs"); Rocket Ball, Ltd. (the "Rockets"); and Dallas Mavericks (the "Mavericks").

third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from the Spurs, the MLB, and SGI, along with its subsidiary MDI Entertainment, L.L.C. ("MDI").² We have considered the submitted arguments and reviewed the submitted information.

Initially, we note that some of the submitted information, which we have marked, is not a contract between the commission and any of the above named sport teams nor is it a contract for one of the specified Texas lottery games. As such, this information is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the commission is not required to release non-responsive information in response to this request. Accordingly, we will address the submitted arguments with regard to the responsive information.

Next, we note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the NBA, the Rockets, or the Mavericks explaining why their submitted information should not be released. Therefore, we have no basis to conclude that any of these third parties have a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the commission may not withhold any portion of the responsive information based upon the proprietary interests of the NBA, the Rockets, or the Mavericks. In addition, the Spurs, the MLB, SGI, and MDI do not object to the release of the responsive information. Therefore, the responsive information must be released to the requestor.

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

²We note that the MLB joins in MDI's arguments against disclosure.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 359198

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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