



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 30, 1996

Mr. Gary Shaver  
Harbour, Boyland, Smith & Harris  
P.O. Drawer 2072  
Longview, Texas 75606-2072

OR96-1559

Dear Mr. Shaver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100818.

The City of Gladewater (the "city"), which you represent, received a request for a complete copy of the bids, internal and external correspondence, and documentation related to the city's water and wastewater utility system request for proposal. You have submitted a portion of one the proposals submitted to the city.

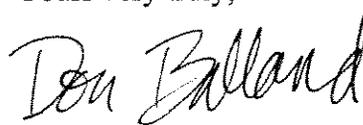
You state that certain information that was submitted to the city by Professional Services Group ("PSG") was marked confidential. Pursuant to section 552.305, you ask whether the city must release this information. Since the property and privacy rights of a third party are implicated by the release of the requested information here, this office notified PSG of this request. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). PSG did not respond to our notification by asserting that portions of its proposal are excepted from required public disclosure. In your letter to this office you state that PSG maintains that the information marked confidential in the proposal is excepted from disclosure by section 552.110 of the Government Code.

Section 552.110 protects the property interests of private persons by excepting from disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or

judicial decision. In this instance, however, neither the city or PSG has made an argument to this office against disclosure. We do not believe that the city or PSG has demonstrated that the requested information constitutes information protected by section 552.110. Open Records Decision Nos. 639 (1996) at 4 (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 (1990) at 5 (party must establish a prima facie case that information is trade secret). Therefore, because you have not shown that the requested information is excepted from disclosure, it must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref.: ID# 100818

Enclosures: Submitted documents

cc: Mr. Robert A. Wilson  
ECO Resources, Inc.  
12550 Emily Court  
Sugar Land, Texas 77478  
(w/o enclosures)

Mr. Stephen Scott  
Professional Services Group, Inc.  
14950 Heathrow Forest Parkway, Suite 200  
Houston, Texas 77032  
(w/o enclosures)