



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 11, 1998

Ms. Leah Curtis Morris  
Attorney at Law  
2708 Washington Street  
Greenville, Texas 75401

OR98-1196

Dear Ms. Morris:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114854.

The City of Greenville (the "city"), which you represent, received an open records request for a particular bid package submitted to the city, including "financial statements, work history, schedule etc. for the sanitary sewer rehab job bid on February 10, 1998." Although you originally argued that the requested bid information may be withheld from the public pursuant to section 552.104 of the Government Code,<sup>1</sup> you have subsequently advised a member of this office that the contract for the work has been awarded. Consequently, section 552.104 is no longer applicable. See Open Records Decision Nos. 306 (1982); 184 (1978) (section 552.104 ceases to apply once the bidding is over and contract is in effect).

You suggest, however, that some of the requested information may be excepted from required public disclosure pursuant to section 552.110 of the Government Code, which excepts from required public disclosure "trade secret or commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." This office notified Southwestern Underground, the company whose bid information is at issue, of your request for an open records decision and requested a demonstration that particular portions of the proposal are excepted from required public disclosure. In its response to this office, however, the president of Southwestern Underground argues that the release of the financial information submitted in connection with the bid would constitute a violation of the president's privacy because he "owns 100% of all holdings of this corporation."

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including

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<sup>1</sup>Section 552.104 of the Government Code protects from required public disclosure "information that, if released, would give advantage to a competitor or bidder."

information coming within the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. In Open Records Decision No. 373 (1983), this office addressed the availability of personal financial information submitted to a city by an applicant for a housing rehabilitation grant. In that decision, this office concluded:

*all financial information relating to an individual -- including sources of income, salary, mortgage payments, assets, medical and utility bills, social security and veterans benefits, retirement and state assistance benefits, and credit history -- ordinarily satisfies the first requirement of common law privacy, in that it constitutes highly intimate or embarrassing facts about the individual, such that its public disclosure would be highly objectionable to a person of ordinary sensibilities.*

Unlike the information at issue in Open Records Decision No. 373 (1983), however, the financial information at issue here pertains to the assets, expenses, and other business dealings of a corporation, as opposed to a particular individual. Corporations do not have a right to privacy. *See* Open Records Decision No. 192 (1978). The right of privacy is intended to protect the feelings and sensibilities of human beings; it does not protect information about private corporations. Open Records Decision No. 624 (1994) and authorities cited therein. Thus, although the information at issue constitutes the background financial information of the corporation that sought a contract with the city, the corporation has no right of privacy in this information. This information therefore may not be withheld pursuant to *common-law privacy*. *Because Southwestern Underground has raised no other exceptions to required public disclosure, the city must release the requested information in its entirety.*

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,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/RWP/ch

Ref.: ID# 114854

Enclosures: Submitted documents

cc: Mr. Greg V. Seely  
President/CEO  
Southwestern Underground, Inc.  
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(w/o enclosures)

Mr. John Simonson  
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(w/o enclosures)