



May 12, 1999

Mr. Mark S. Smock
Deputy for Finance and Administration
Texas Commission on Alcohol and Drug Abuse
P.O. Box 80529
Austin, Texas 78708-0529

OR99-1283

Dear Mr. Smock:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124045.

The Texas Commission on Alcohol and Drug Abuse (the commission) received a request for the winning proposal submitted in response to Invitation for Bid number 517-9-463. You state that portions of the requested bid were marked proprietary and confidential. You therefore claim that this requested information may be excepted from disclosure under section 552.110 of the Government Code. You have submitted the requested information for our review.

Since the property rights of a third party may be implicated by the release of the requested information, this office notified DM2000, Inc. about the request for information. *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 Public Information Act in certain circumstances). The commission provided this office with the company's arguments against disclosure.

DM2000 argues generally that the information in the proposal reflecting its bid price or quotation, and client references or inventory is confidential and must be withheld. Section 552.110 protects the property interests of private parties 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. We have examined the arguments submitted by the commission and DM2000. We do not believe that either has established that information in the proposal reflecting DM2000's bid price or

quotation, or client references or inventory is protected from disclosure by section 552.110. See Open Records Decision Nos. 639 at 4 (1996) (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 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). The requested information must, therefore, be released.

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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 124045

encl. Submitted documents

cc: Mr. Terry Barnett
Dean's Moving and Storage, Inc.
600 West Broad Street
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(w/o enclosures)

Ms. Carolyn R. Jordan
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