



August 27, 2001

Ms. Amanda Crawford
Assistant Attorney General
Public Information Coordinator
P.O. Box 12548
Austin, Texas 78711-2548

OR2001-3776

Dear Ms. Crawford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151164.

The Office of the Attorney General (the "OAG") received a request for the following information:

1. One copy of the complete contract between LexisNexis and the OAG (including price information), and any subsequent modifications and/or amendments.
2. One copy of the proposal that LexisNexis submitted in response to [RFO 253988].

You state that, with the exception of the submitted information, you have released all responsive information to the requestor. Without taking a position on the release of the information, you ask whether the submitted information is excepted from disclosure under section 552.110 of the Government Code. You state that the submitted information "may constitute confidential trade secret, commercial or financial information," and that you have made a good faith effort to notify the third party whose information is at issue in this request pursuant to section 552.305 of the Government Code. We have considered the exception you raise and reviewed the submitted information.

As of the date of this letter, the third party, LexisNexis, has not submitted to this office its reasons explaining why the submitted information should not be released. Therefore, we have no basis to conclude that the submitted information is excepted from disclosure. See Gov't Code § 552.110(b) (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); Open Records Decision Nos. 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Accordingly, the submitted information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Karen A. Eckerle
Assistant Attorney General
Open Records Division

KAE/sdk

Ref: ID# 151164

Enc: Submitted documents

c: Mr. John S. Nelson
Government Contracts Counsel
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(w/o enclosures)