



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 24, 2006

Ms. Noelle C. Letteri  
Legal Services Division  
Texas General Land Office  
P. O. Box 12873  
Austin, Texas 78711-1495

OR2006-12537

Dear Ms. Letteri:

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#262722.

The Texas General Land Office (the "GLO") received a request for five named companies' winning bids for the bid titled "Professional Engineering Services, requisition number 61998-DF." You state that you do not have responsive information regarding one named company.<sup>1</sup> You also state that you will provide the requestor with information pertaining to two of the named companies. However, you claim that the submitted information may be excepted from disclosure under section 552.110 of the Government Code. Although you take no position on the proprietary nature of the information, you state, and provide documentation showing, that you have notified the interested third parties, Turner Collie & Braden, Inc. ("TCB") and Carter & Burgess, Inc. ("CB") of the request pursuant to section 552.305 of the Government Code and of the companies' right to submit arguments explaining why the information concerning it should not be released. See Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have received comments from both TCB and CB. We have considered the submitted arguments and reviewed the submitted information.

TCB and CB each claim exception to disclosure under section 552.110 of the Government Code. Section 552.110(b) of the Government Code protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure

---

<sup>1</sup>We note the Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.* § 552.110(b); *see also National Parks & Conservation Ass’n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974); Open Records Decision No. 661.

Upon review of TCB’s and CB’s arguments and the information at issue, we determine that both companies have failed to submit any argument demonstrating that any portion of the information at issue is commercial or financial information the release of which would cause substantial competitive harm to the company. Furthermore, we note that the pricing information of a winning bidder is generally not excepted under section 552.110(b) of the Government Code. This office considers the prices charged in government contract awards to be a matter of strong public interest. *See* Open Records Decision No. 514 (1988) (public has interest in knowing prices charged by government contractors). *See generally* Freedom of Information Act Guide & Privacy Act Overview, 219 (2000) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). Accordingly, we determine that none of the submitted information is excepted from disclosure under section 552.110 of the Government Code. *See* Open Records Decision Nos. 661, 319 at 3. As no further exceptions are raised for this information, it must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,



Holly R. Davis  
Assistant Attorney General  
Open Records Division

HRD/krl

Ref: ID# 262722

Enc. Submitted documents

c: Mr. Fred Brown  
506 Country Lane  
Coppell, Texas 75019  
(w/o enclosures)

Mr. James C. Gordon  
Winstead Sechrest & Minick  
1100 Carter Burgess Plaza  
777 Main Street  
Fort Worth, Texas 76102  
(w/o enclosures)

Ms. Gretchen M. Umbeck  
Senior Vice President  
General Counsel  
Turner Collie & Braden Inc.  
5757 Woodway, Suite 101 West  
Houston, Texas 77057-1599  
(w/o enclosures)