



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 29, 2009

Ms. Caroline E. Cho
Assistant County Attorney
Williamson County
405 Martin Luther King, #7
Georgetown, Texas 78626

OR2009-07338

Dear Ms. Cho:

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# 344531.

The Williamson County Purchasing Department (the "county") received a request for the current contract for the county tennis center. You claim that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. You also state that release of the submitted information could implicate the proprietary interests of the individual who is the other party to the contract at issue. Accordingly, you state, and provide documentation showing, that you notified this individual of the county's receipt of the request for information and his right to submit arguments to this office as to why his information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received arguments from this individual. We have considered the submitted arguments and reviewed the submitted information.

Initially, we address the interested third party's argument that the submitted information is excepted under section 552.104 of the Government Code. Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." We note, however, that section 552.104 is a discretionary exception that protects only the interests of a governmental body, as distinguished from exceptions that are intended to protect the interests of third parties. *See* Open Records Decision Nos. 592 (1991) (statutory predecessor to section 552.104 designed to protect interests of a governmental body in a competitive situation, and not interests of private parties submitting information to the government), 522 (1989) (discretionary exceptions in general). As the county does not seek to withhold any information pursuant to section 552.104, we find this section does not apply to the information. *See* Open Records Decision No. 592 (1991) (governmental body may

waive section 552.104). Therefore, the county may not withhold any of the information at issue pursuant to section 552.104.

Next, the county asserts that portions of the submitted information are excepted under section 552.136 of the Government Code. Section 552.136(b) provides that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." The county must withhold the policy numbers you have marked, as well as the account numbers we have marked, under section 552.136. The remaining information must be released to the requestor.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/jb

Ref: ID# 344531

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Danny Meek
7806 Taranto Drive
Austin, Texas 78729
(w/o enclosures)