



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 12, 2009

Ms. Nicole B. Webster  
Assistant City Attorney  
Legal Services  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2009-16116

Dear Ms. Webster:

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# 361186 (LGL-09-824).

The City of Waco (the "city") received a request for the proposals submitted in response to a request for proposals for 2009 audit services for the city. Although you raise no exceptions to disclosure of the requested information, you state release of this information may implicate the proprietary interests of third parties. Thus, pursuant to section 552.305 of the Government Code, you have notified Belt Harris & Associates, L.L.P. ("BHA"), of the request and of the company's right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *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 to disclosure under certain circumstances). We have reviewed the submitted information.

Initially, you inform this office that some of the requested information was the subject of a previous request received by the city, as a result of which this office issued Open Records Letter No. 2009-14693 (2009). We have no indication that there has been any change in the law, facts, or circumstances on which the previous ruling was based. We therefore conclude that the city may continue to rely on Open Records Letter No. 2009-14693 as a previous determination and withhold or release the previously ruled upon information in accordance

with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will next address the submitted information, which consists of BHA's proposal response, as it is not subject to the previous determination.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, BHA has not submitted any comments to this office explaining how release of the information at issue would affect the company's proprietary interests. Accordingly, none of the information pertaining to BHA may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret). As the city makes no arguments regarding this information, it 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](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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 361186

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Roger Belt  
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Houston, Texas 77024  
(w/o enclosures)