



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 10, 2009

Mr. Marcus W. Norris  
City Attorney  
City of Amarillo  
P.O. Box 1971  
Amarillo, Texas 79105

OR2009-17463

Dear Mr. Norris:

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# 364236.

The City of Amarillo (the "city") received a request for the winning bid for a specified request for proposals. Although you take no position with respect to the public availability of the requested information, you state that release of this information may implicate the proprietary interest of a third party. You inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the city has notified Tascosa Office Machines ("Tascosa") of the request and of its right to submit arguments to this office explaining why the submitted information should not be released. *See* Gov't Code § 552.305 (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 certain circumstances). Pursuant to section 552.305(d), Tascosa has submitted comments to this office objecting to the release of its information. We have considered the submitted argument and reviewed the submitted information.

Tascosa asserts that release of its pricing information would put the company at a competitive disadvantage for future bids. Thus, we understand Tascosa to assert that its pricing information is excepted from disclosure under section 552.110(b) of the Government

Code. Section 552.110(b) excepts from disclosure “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.” Gov’t Code § 552.110(b). Section 552.110(b) requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the requested information. *See* Open Records Decision Nos. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm), 509 at 5 (1988) (because costs, bid specifications, and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts was entirely too speculative).

In this instance, we note that Tascosa was selected as the winning bidder of the request for proposals at issue. Pricing information of a winning bidder, such as Tascosa in this instance, is generally not excepted under section 552.110(b). This office considers the prices charged in government contract awards to be a matter of strong public interest. *See* Open Records Decision Nos. 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). We therefore conclude that the city may not withhold any portion of Tascosa’s pricing information under section 552.110(b) of the Government Code. *See* ORD 661 at 5-6.

We note that a portion of Tascosa’s proposal is excepted from disclosure under section 552.136 of the Government Code.<sup>1</sup> Section 552.136 states 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.” Gov’t Code § 552.136(b). Upon review, we find that the insurance policy numbers in the submitted information are access device numbers under section 552.136. Accordingly, the city must withhold the insurance policy numbers, which we have marked, under section 552.136 of the Government Code. As no further exceptions to disclosure are raised, 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

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/tl

Ref: ID# 364236

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

cc: Ms. Kelly King  
Tascosa Office Machines  
1005 West 8<sup>th</sup> Street  
Amarillo, Texas 79101  
(w/o enclosures)