



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 18, 2009

Ms. Traci S. Briggs  
Deputy City Attorney  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540-1329

OR2009-17971

Dear Ms. Briggs:

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# 364994.

The City of Killeen (the "city") received a request for the proposals of Deer Oaks EAP Services, LLP ("Deer Oaks"); UT Advantage; and Mines and Associates, PC ("Mines") submitted in response to a specified RFP.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the city has notified the interested third parties of the request and of their right to submit arguments to this office explaining why their 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

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<sup>1</sup>You provide documentation showing the city sought and received clarification from the requestor regarding this request. *See Gov't Code § 552.222(b)* (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

circumstances). We have considered the exception you claim and reviewed the submitted information.

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 information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the notified third parties explaining why their submitted proposals should not be released. On behalf of Deer Oaks, UT Advantage, and Mines, however, you assert that the submitted information may be excepted under section 552.110 of the Government Code. We note that section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the city's arguments under section 552.110 and none of the submitted information may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). As no other exceptions to disclosure have been raised, the submitted 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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/eeg

Ref: ID# 364994

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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