



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2010

Ms. Jordan Hale
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2010-03505

Dear Ms. Hale:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 373076 (PIR No. 10-26923).

The Office of the Attorney General (the "OAG") received a request for the winning bid proposal and the Pricing Submission Forms bidders other than Merrill and Chandler submitted in response to Bid Reference No. 302-0-0072. The OAG takes no position as to disclosure of the information. Rather, because release of the information may implicate the proprietary interests of Integrity Legal Support Solutions, LLC ("Integrity"), the OAG notified Integrity of the request and of its right to submit arguments to this office as to why its information should not be released. Gov't Code § 552.305(d) (permitting third party with proprietary interest to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances).

First, the OAG states it released most of the pricing forms in accordance with Open Records Letter No. 2009-17515 (2009). Because Integrity was the requestor in the prior ruling, its information was not at issue in that ruling. Furthermore, because only the pricing forms were requested in the prior ruling, the winning bid proposal responsive to the present request was also not at issue in the prior ruling. Because the OAG did not submit the winning proposal

for our review, we assume the OAG has also released the proposal. *See* Gov't Code §§ 552.301, .302.

Next, we consider Integrity's arguments to withhold its pricing information under section 552.110(b) of the Government Code. Section 552.110(b) protects the property interests of private persons by excepting from disclosure commercial 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. *Id.* § 552.110(b). An interested third party raising this exception must provide a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from disclosure. *Id.*; *see also Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974). However, the pricing information of a winning bidder 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), 494 (1988) (requiring balancing of public interest in disclosure with competitive injury to company); *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). Here, Integrity is a winning bidder. We therefore find Integrity's pricing information is not excepted from disclosure under section 552.110(b). The OAG must release the information.

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, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 373076

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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