



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 30, 2011

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2011-12509

Dear Mr. Bounds:

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# 428411.

The City of Corpus Christi (the "city") received a request for a copy of the matrix reflecting the rankings of all vendors who submitted proposals in response to a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state this information may implicate the proprietary interests of American Municipal Tax-Exempt Compliance Corporation ("American"), BLX Group, L.L.C. ("BLX"), and Crowe Horwath, L.L.P. ("Crowe"). Thus, pursuant to section 552.305 of the Government Code, you notified these companies of the request and of their right to submit arguments to this office as to why the submitted information 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 in certain circumstances). We have reviewed the submitted information.

We note some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-12026 (2011). You notified American, Crowe, and PFM Asset Management, L.L.C. ("PFM"), of the previous request for information, and Crowe submitted comments to our office. In that ruling, we concluded, in part, the city must release the information in the matrix pertaining to American, Crowe, and PFM. With respect to these companies' information, we have no

indication the law, facts, and circumstances on which Open Records Letter No. 2011-12026 was based have changed. Accordingly, we conclude the city must continue to rely on Open Records Letter No. 2011-12026 as a previous determination and release the submitted information that pertains to American, Crowe, and PFM in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). As noted above, in response to the current request for a ruling, you notified BLX of its right to submit arguments explaining why the submitted information pertaining to it should not be released.¹ Accordingly, we will address whether the city must withhold any of the information pertaining to BLX to protect that company's third party interests.

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 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, BLX has not submitted comments to this office explaining why any of the submitted information pertaining to it should not be released. Therefore, we have no basis to conclude that BLX has a protected proprietary interest in the any of the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (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 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold any portion of the submitted information based upon the proprietary interests of BLX. As no exceptions to disclosure have been raised, the submitted information that pertains to BLX must be released.

In summary, the city must continue to rely on Open Records Letter No. 2011-12026 as a previous determination and release the submitted information that pertains to American, Crowe, and PFM in accordance with that ruling. The submitted information that pertains to BLX also must be released.

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,

¹We note BLX was the requestor in the previous ruling and, thus, did not need to submit arguments to withhold its own information.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 428411

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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