



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 7, 2012

Mr. David C. Schulze
Acting General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2012-06648

Dear Mr. Schulze:

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# 452578 (DART ORR 8845 and 8927).

Dallas Area Rapid Transit ("DART") received two requests from the same requestor for a copy of all contracts that Sunland Group, Inc. ("Sunland") has executed with DART, copies of the requests for proposals associated with those contracts, and copies of the proposals submitted by Sunland. You state you have provided a cost estimate to the requestor for non-objectionable documents. Although you take no position with respect to the public availability of the submitted information, you state the proprietary interests of certain third parties might be implicated. Accordingly, you state, and provide documentation showing, you notified Sunland and KJM & Associates of the requests 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 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). We have received arguments submitted by Sunland. We have considered these arguments and reviewed the submitted information.

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant request for information because they consist of a proposal submitted by a company other than Sunland. This ruling does not address the public availability of any information that is not responsive to the request and DART is not required to release such information in response to this request.

Sunland seeks to withhold portions of its proposal under section 552.110(b) of the Government Code. Section 552.110(b) protects “[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). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5 (1999).

Sunland argues that its project approach, quality management program, and scheduling section are protected under section 552.110(b) of the Government Code. Upon review, we find that Sunland has demonstrated the information it seeks to withhold, which we have marked, would cause the company substantial competitive harm. Accordingly, DART must withhold the information we have marked under section 552.110(b) of the Government Code. The remaining responsive information 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, 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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 452578

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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