



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 17, 2014

Ms. Hadassah Schloss  
Open Records Coordinator  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2014-04417

Dear Ms. Schloss:

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# 516897.

The Texas General Land Office (the "GLO") received three requests from the same requestor for all current GLO contracts with veterans home operators; all e-mails and letters from a named individual concerning veterans nursing homes operated by the Sears Methodist Retirement System (the "system") during a specified period of time; and all e-mails and letters between the GLO and a named state senator concerning a named individual, the system, and veterans retirement homes during a specified period of time. You state you have released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. You also state release of some of the submitted information may implicate the interests of the Care Inn Management, Inc., and Touchstone Veterans GP, Inc. (collectively, "Care Inn"), and Senior Dimensions, Inc. ("Senior Dimensions"). Accordingly, you state, and have provided documentation showing, you notified these third parties of the request for information and of their right to submit arguments stating 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); 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 comments from Care Inn. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the information submitted as Attachment B is not responsive to the instant requests for information because it does not consist of a GLO contract with a veterans home operator or the e-mails and letters specified in the requests. This ruling does not address the public availability of any information that is not responsive to the requests and the GLO is not required to release such information in response to these requests.<sup>1</sup>

Next, we note 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) of the Government Code 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 Senior Dimensions explaining why its information should not be released. Therefore, we have no basis to conclude Senior Dimensions has a protected proprietary interest in the information at issue. *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 GLO may not withhold the information at issue on the basis of any proprietary interest Senior Dimensions may have in the information.

Care Inn states portions of its information are excepted from disclosure 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) (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).

Care Inn asserts portions of its information consist of commercial information the release of which would cause substantial competitive harm under section 552.110(b) of the Government Code. Upon review, we find Care Inn has made only conclusory allegations that the release of any of its information would result in substantial harm to its competitive position. *See* Open Records Decision Nos. 661 (for information to be withheld under

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<sup>1</sup>As we are able to make this determination, we need not consider your arguments against disclosure of the information in Attachment B.

commercial or financial information prong of section 552.110, business must show by specific factual evidence that substantial competitive injury would result from release of particular information at issue). Furthermore, we note the contracts at issue were awarded to Care Inn. This office considers the prices charged in government contract awards to be a matter of strong public interest; thus, the pricing information of a winning bidder is generally not excepted under section 552.110(b). *See* Open Records Decision No. 514 (1988) (public has interest in knowing prices charged by government contractors). *See generally* Dep't of Justice Guide to the Freedom of Information Act 344-345 (2009) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). Further, the terms of a contract with a governmental body are generally not excepted from public disclosure. *See* Gov't Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public); Open Records Decision No. 541 at 8 (1990) (public has interest in knowing terms of contract with state agency). Accordingly, none of Care Inn's information may be withheld under section 552.110(b).

We note some of the responsive information is subject to section 552.136 of the Government Code.<sup>2</sup> Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], 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). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining "access device"). Accordingly, the GLO must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.<sup>3</sup> 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

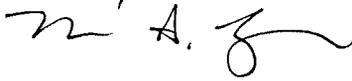
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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>3</sup>Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

Ref: ID# 516897

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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