



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2014

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County
401 West Belknap, Ninth Floor
Fort Worth, Texas 76196-0201

OR2014-11651

Dear Ms. Fourt:

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# 528410.

The Tarrant County District Attorney's Office (the "district attorney's office") received a request for information relating to the contracted rates for translation and interpretation services and the identities of the entities supplying those services to Tarrant County. You state the district attorney's office does not have information responsive to a portion of the request.¹ You state you have released some information to the requestor. Although you take no position as to whether the remaining requested information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, you notified Catholic Charities, Diocese of Fort Worth, Inc. ("Catholic Charities"); Telelanguage, Inc.; and Linguistica International of the request for information and of their right to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Catholic Charities. We have considered the submitted arguments and reviewed the submitted information.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have only received correspondence from Catholic Charities. Thus, the remaining third parties have not demonstrated they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)–(b); 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 district attorney's office may not withhold the submitted information on the basis of any proprietary interests the remaining third parties may have in the information.

Next, we address Catholic Charities's arguments against disclosure. 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* ORD 661 at 5.

Upon review, we find Catholic Charities has made only conclusory allegations that the release of any of its information would result in substantial harm to its competitive position. Thus, we find Catholic Charities has failed to demonstrate the release of any of the submitted information would cause it substantial competitive harm. *See* Open Records Decision No. 319 at 2 (1982) (information relating to organization, personnel, market studies, professional references, qualifications, experience, and pricing not excepted under section 552.110). Furthermore, we note the pricing information of a winning bidder, such as Catholic Charities, 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 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). Accordingly, the district attorney's office may not withhold any of the submitted information under section 552.110(b).

We note the submitted information contains information that is subject to section 552.136 of the Government Code.² Section 552.136 of the Government Code states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card,

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

or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, we find the district attorney’s office must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district attorney’s office must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The remaining information must be released; however, any information subject to copyright may only be released in accordance with copyright law.

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

Sincerely,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/dls

Ref: ID# 528410

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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