



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 17, 1996

Ms. Rose-Michel Munguia  
Legal Counsel  
General Services Commission  
P.O. Box 13047  
Austin, Texas 78711-3047

OR96-1168

Dear Ms. Munguia:

You have asked this office whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40595.

The General Services Commission (the "GSC") received a request for a mailing list containing only the names and addresses of companies that were sent copies of a request for proposal ("RFP"). You contend that these companies' names and mailing addresses are protected from disclosure under sections 552.104 and 552.110 of the Government Code:

[D]ue to the composition of the Automotive Parts Industry, the mere identity of a manufacturer or distributor is sufficient to identify the manufacturer's or distributor's inventory, pricing, and operational structure. As the information regarding inventory, pricing, and operational structure is the major element for response by the proposers, release of the mailing list of the potential proposers would defeat the integrity of the RFP process. Likewise, release of the mailing list of potential proposers may also affect privacy or property interests of third parties.

Section 552.104 excepts "information that, if released, would give advantage to a competitor or bidder." The purpose of section 552.104 is to protect a governmental body's interests in a commercial context by keeping some competitors or bidders from gaining unfair advantage over other competitors or bidders. Open Records Decision No. 541 (1990) at 4. However, in Open Records Decision No. 86 (1975) at 2, this office stated that release of the identity of potential bidders is not the type of information that, if released, would provide an advantage to competitors or bidders in a particular bidding situation. The mailing list is not excepted from disclosure pursuant to section 552.104.

Section 552.110 protects the property interests of private persons by excepting from required public disclosure two types of information: (1) trade secrets, and (2) commercial or financial information that is obtained from a person and made privileged or confidential by statute or judicial decision. In *Hyde Corp. v. Huffines*, 314 S.W.2d 763, 776 (Tex.), *cert. denied*, 358 U.S. 898 (1958), the Texas Supreme Court adopted the definition of trade secret from section 757 of the Restatement of Torts. Section 757 provides that a trade secret

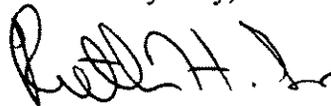
may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives [one] an opportunity to obtain an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating or preserving materials, a pattern for a machine or other device, or a list of customers . . . . A trade secret is a process or device for continuous use in the operation of the business. Generally it relates to the production of goods, as for example, a machine or formula for the production of an article. It may, however, relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping or other office management.

RESTATEMENT OF TORTS § 757 cmt. b (1939).

The information at issue does not constitute the type of information that would be protected under the trade secret aspect of section 552.110. Nor does this type of information implicate a protected interest under the "commercial or financial" information prong of section 552.110. *See* Open Records Decision No. 639 (1996).

As the mailing list is not protected from disclosure under either sections 552.104 or 552.110, it must be disclosed to the requestor. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 40595

Enclosures: Submitted document

cc: Mr. Eugene Hankinson  
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(w/o enclosures)