



March 4, 1999

Ms. Mary D. Marquez
Assistant to Chief Counsel
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR99-0621

Dear Ms. Marquez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122559.

Capital Metropolitan Transportation Authority ("Capital Metro") received a request for

Any and all original bids, proposals, evaluations, scoring matrices, contracts and extensions thereto regarding the granting by the Capital Metro Transit Authority of the UT-Austin Shuttle Service contract to Dave / Laidlaw that has been extended to expire on May 31, 1999.

You raise section 552.305 of the Government Code and indicate that TCT Transit Services ("TCT") has a proprietary interest in some of the requested documents. TCT has advised Capital Metro that it may release TCT's Technical Proposal, but that TCT objects to the release of portions of its Cost Proposal. You state that you will forward all other responsive documents to the requestor.

Since TCT informed you that it considers portions of its Cost Proposal to be proprietary, we notified TCT about the request for information and of its opportunity to submit arguments against disclosure to this office. *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 that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Open Records Act in certain circumstances). We did not receive a response from TCT.

TCT did not respond to our notice and has only generally alleged, in a letter to you, that its Cost Proposal is proprietary. Therefore, we have no basis to conclude that its Cost Proposal is excepted from disclosure. *See* Open Records Decision Nos. 639 at 4 (1996) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). TCT's Cost Proposal must, therefore, be released 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.

Sincerely,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref:: ID# 122559

Enclosures: Submitted documents

cc: Mr. Kevin S. Cowley
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(w/o enclosures)

Mr. Kevin J. Adams
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TCT Transit Services
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