ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2007

Ms. Cara Leahy White
Taylor Olson Adkins Sralla Elam L.L.P.
6000 Western Place, Suite 200
I-30 at Bryant-Irvin Road
Fort Worth, Texas 76107

OR2007-13570

Dear Ms. White:

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# 292057.

Workforce Solutions for Tarrant County (the "county"), which you represent, received a request for "the proposal selected for the operation and management of the Tarrant County Workforce System submitted in response to the recent Request for Proposals." While you raise sections 552.101 and 552.110 of the Government Code as possible exceptions to disclosure for the requested information, you make no arguments as to whether the submitted information is excepted under those sections. You indicate that the release of the submitted information may implicate the proprietary interests of Workforce Network, Inc.[1] and have notified it in accordance with section 552.305. *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). The joint venture has responded and argues that portions of the submitted information are excepted from disclosure under section 552.110. We have considered the submitted arguments and reviewed the submitted information.

[1]The submitted information reflects that Workforce Network, Inc. submitted a proposal as a joint venture with Unique Staff Leasing II, Ltd. (collectively, the "joint venture").

Initially, the county and the joint venture notify this office that some of the submitted information is the subject of Open Records Letter No. 2007-11948 (2007). Open Records Letter No. 2007-11948 concluded that the marked information in the joint venture's proposal must be withheld pursuant to section 552.110(b) of the Government Code. With regard to the requested information that is identical to the information previously requested and ruled upon by this office in that prior ruling, we conclude that, as we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, you must continue to rely on Open Records Letter No. 2007-11948 as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

We note that in this instance, the county has submitted pages 558 through 577, as well as other additional pages, of the joint venture's proposal, which were not previously submitted to this office. Accordingly, we address the joint venture's arguments for this information because we did not previously issue a ruling with regard to this information.

The joint venture asserts that the formal audit of Unique Staff Leasing II, Ltd. constitutes protected financial information pursuant to section 552.110(b). 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.* § 552.110(b); Open Records Decision No. 661 (1999).

Upon review, we determine that the joint venture has established that the release of the information we have marked would cause it substantial competitive harm. However, with regard to the remaining information at issue, we find that the joint venture has made only conclusory allegations that release would cause the joint venture substantial competitive harm, and has provided no specific factual or evidentiary showing to support such allegations. Accordingly, no part of the remaining information at issue may be withheld on this basis.

We note that the additional information contains insurance policy numbers. Section 552.136 of the Government Code states that "[n]otwithstanding any other provision of this chapter, 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.[2] The county must withhold the insurance policy numbers we have marked.

In summary, the county must withhold and release the submitted information in accordance with this office's ruling in Open Records Letter No. 2007-11498. The county must withhold the information that we have marked under section 552.110(b). The county must withhold the marked insurance policy numbers under section 552.136. The remaining information must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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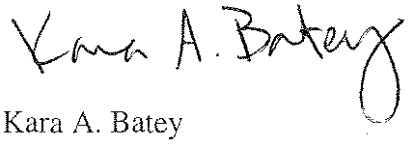
[2]The Office of the Attorney General will raise a mandatory exception like section 552.136 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kara A. Batey
Assistant Attorney General
Open Records Division

KAB/jh

Ref: ID# 292057

Enc. Submitted documents

c: Ms. Misty Clark
Texas Neighborhood Services
1802 Martin Drive
Weatherford, Texas 76086
(w/o enclosures)

Mr. Chris Everett Soliz
President/CEO
Workforce Network, Inc.
4646 Corona Drive, Suite 110
Corpus Christi, Texas 78411
(w/o enclosures)