



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 23, 2009

Ms. Amanda McCrory  
City Secretary  
City of Burleson  
141 West Renfro  
Burleson, Texas 76028-4261

OR2009-00909

Dear Ms. McCrory:

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# 333269.

The City of Burleson (the "city") received a request for commercial solid waste prices for all vendors currently providing service to commercial customers in the city. The city takes no position on whether the submitted information is excepted from disclosure, but states that release of this information may implicate the proprietary interests of Service Waste, Waste Management, IESI, Republic/Duncan, Area Waste Solutions, Inc., Bluebonnet Waste Control, and Empire Waste, (collectively the "third parties"). Accordingly, you inform us, and provide documentation showing, that you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

Initially, we note that a portion of the submitted information is not responsive to the instant request because it does not constitute "commercial solid waste prices." The city need not release any non-responsive information that is contained in the submitted information in response to this request and this ruling will not address that information.

Next, we note that 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) 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 any of the third parties explaining why the responsive information should not be released. Therefore, we have no basis to conclude that any of the third parties have

a protected proprietary interest in the responsive information. *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 city may not withhold the responsive information based upon the proprietary interests of the third parties. As no further exceptions against the disclosure of the responsive information are raised, this information must be released to the requestor.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/jb

Ref: ID# 333269

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Service Waste  
P.O. Box 1195  
Fort Worth, Texas 76101  
(w/o enclosures)

Waste Management  
1121 Riverside Drive  
Fort Worth, Texas 76111  
(w/o enclosures)

IESI  
4001 Old Denton Road  
Haltom City, Texas 76114  
(w/o enclosures)

Empire Waste  
5301 Sun Valley Drive  
Fort Worth, Texas 76119  
(w/o enclosures)

Bluebonnet Waste Control  
P.O. Box 223845  
Dallas, Texas 75222  
(w/o enclosures)

Republic/Duncan  
1212 Harrison Avenue  
Arlington, Texas 76011  
(w/o enclosures)