



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 21, 2009

Ms. Anne M. Constantine
Legal Counsel
Dallas/Fort Worth International Airport
P.O. Box 619428
DFW Airport, Texas 75261-9428

OR2009-06943

Dear Ms. Constantine:

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# 344083.

The Dallas-Fort Worth International Airport Board (the "board") received a request for profit and loss statements from Parking Concepts, Inc. ("PCI"), as well as other specified information pertaining to the board's contract with PCI. The board takes no position on whether the submitted information is excepted from disclosure, but states that the release of the submitted information may implicate the proprietary interests of PCI. Accordingly, you state you have notified PCI of the board's receipt of the request for information and its right to submit arguments to this office as to why the 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 arguments from a representative of PCI. We have considered the submitted arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note that the document we have marked in the submitted information is not responsive to the instant request for information because it was created after the request was received. This ruling does not address the public availability of any information that is not

responsive to the request, and the board is not required to release that information in response to the request.

Next, we note that the only responsive document you have submitted is PCI's quarterly income statement for the period ending November 30, 2008 related to its contract with the board. However, the requestor asked for several other categories of information, including all correspondence between PCI and the board related to PCI's financial performance and documentation related to marketing and other costs incurred by the board associated with PCI's contract. Thus, to the extent any additional information responsive to the request existed on the date the board received the request, we assume you have released it. If you have not released any such information to the requestor, you must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

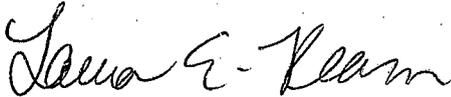
PCI raises section 552.110(b) of the Government Code, which protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). 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); *see also* Open Records Decision No. 661 (1991). Upon review of the submitted arguments and information at issue, we find that PCI has made only conclusory allegations that the release of the submitted information at issue would result in substantial damage to the company’s competitive position. Thus, PCI has not demonstrated that substantial competitive injury would result from the release of any of the submitted information. Furthermore, we note that the submitted information pertains solely to PCI’s performance under its contract with the board. This office considers the details of government contract awards to be a matter of strong public interest. *See* Open Records Decision No. 514 (1988) (public has interest in knowing details of contracts entered into by governmental bodies). *See generally* Freedom of Information Act Guide & Privacy Act Overview, 219 (2000) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). We therefore conclude that none of the submitted information is excepted from disclosure under section 552.110(b). *See* Open Records Decision Nos. 661 (for information to be withheld under commercial or financial information prong of section 552.110, business must show by specific factual evidence that substantial competitive injury would result from release of particular information at issue), 509 at 5 (1988) (because costs, bid specifications, and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts is too speculative), 319 at 2 (finding information relating to organization, personnel, market studies, professional references, qualifications, experience, and pricing not excepted under

section 552.110). As no other arguments are raised against the disclosure of the submitted information, it 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, 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/dls

Ref: ID# 344083

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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