



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 6, 2009

Mr. K. Scott Oliver  
Corporate Counsel  
San Antonio Water System  
P.O. Box 2449  
San Antonio, Texas 78298-2449

OR2009-14037

Dear Mr. Oliver:

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# 358807.

The San Antonio Water System (the "system") received a request for portions of the winning bidder's bid proposal for an asphalt contract, the bid tabulation, and related staff notes. You state you have released some information. Although you take no position on the remaining requested information, you explain the remaining information may contain proprietary information subject to exception under the Act. Accordingly, you have notified H.L. Zumwalt Construction, Inc. ("Zumwalt") of this request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305(d)*; 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.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this decision, we have not received any correspondence from Zumwalt. Thus, Zumwalt has failed to demonstrate it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by

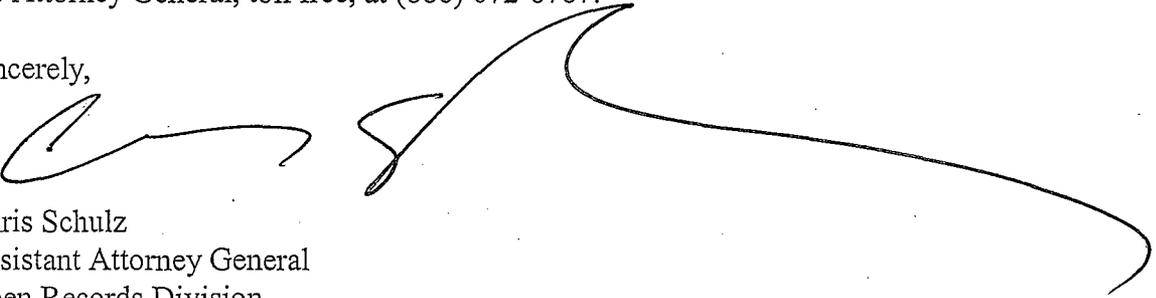
specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). Accordingly, no portion of the submitted information may be withheld on the basis of Zumwalt's proprietary interest.

We note the submitted information contains a bank account number. Section 552.136(b) of the Government Code states that "[n]otwithstanding any other provision of [the Act], 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."<sup>1</sup> Gov't Code § 552.136(b). The system must withhold the information we have marked pursuant to section 552.136 of the Government Code. The remaining information must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 358807

Enc. Submitted documentscc:

Requestor  
(w/o enclosures)

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception, such as 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).