



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 24, 2009

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

OR2009-16720

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# 362458.

The San Antonio Water System (the "system") received a request for bid proposal documents submitted by several named third parties regarding six specified projects. You state the system has provided most of the requested information to the requestor. Although you state the system takes no position with respect to the public availability of the remaining requested information, you state its release may implicate the proprietary interests of ARCADIS, Slay Engineering Co., Inc. ("Slay"), and Tetra Tech. Accordingly, you state, and have provided documentation showing, you notified these companies of the request and of each company's right to submit arguments to this office as to why their proposal information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

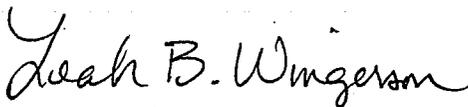
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from ARCADIS, Slay, or Tetra Tech explaining why their submitted proposal information should not be released. Therefore, we have no basis to conclude these companies have protected

proprietary interests in their submitted 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. Consequently, the system may not withhold the submitted proposal information on the basis of any proprietary interests ARCADIS, Slay, and Tetra Tech may have in the information. As no exceptions to disclosure have been claimed, the submitted 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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 362458

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)

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Tetra Tech
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