



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 30, 2010

Mr. Lewis L. Isaacks
Gay, McCall, Isaacks, Gordon & Roberts
For North Texas Municipal Water District
777 East 15th Street
Plano, Texas 75074

OR2010-04468

Dear Mr. Isaacks:

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# 374188.

The North Texas Municipal Water District (the "district"), which you represent, received a request for all non-privileged contract documents and letter communications pertaining to a specified proposed land acquisition deal, as well as all non-privileged documents pertaining to Mitico or its principals.¹ You state the district has provided the requested letter communications and Mitico documents to the requestor. You claim the submitted contract documents are excepted from disclosure under section 552.105 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note section 552.022 of the Government Code applies to the submitted information. Section 552.022(a) provides, in part, that

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

¹You have provided documentation showing the district sought and received clarification from the requestor regarding the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). In this instance, the submitted information consists of a contract and its attachments that are subject to section 552.022(a)(3) of the Government Code. Although you seek to withhold this information under section 552.105 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 564 (1990) (statutory predecessor to section 552.105 subject to waiver). As such, section 552.105 is not other law that makes information confidential for the purposes of section 552.022. Therefore, the district may not withhold any of the submitted contract information under section 552.105 of the Government Code. We note, however, some of the information is subject to section 552.136 of the Government Code.² As section 552.136 is considered other law for purposes of section 552.022, we will consider the applicability of section 552.136 to the submitted information.

The submitted information contains bank account and routing numbers. Section 552.136 of the Government Code states "[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. We find the bank account and routing numbers at issue constitute access device numbers for purposes of section 552.136. Thus, the district must withhold the bank account and routing numbers we have marked under section 552.136 of the Government Code.³ As no other exceptions to disclosure have been claimed, 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.

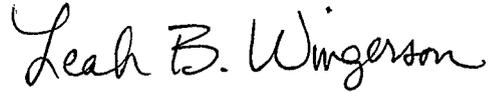
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php,

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

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including bank account and routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 374188

Enc. Submitted documents

c: Requestor
(w/o enclosures)