



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2010

Mr. Peter Scott  
Assistant City Attorney  
City of Wichita Falls  
P.O. Box 1431  
Wichita Falls, Texas 76307

OR2010-18328

Dear Mr. Scott:

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# 402218 (City ID# 328).

The City of Wichita Falls (the "city") received a request for the most recent proposal submitted by a named individual or his company for impound and towing services. Although you take no position with respect to the public availability of the submitted information, you state release of the information may implicate the proprietary interests of Jody Wade Enterprises, L.L.C. ("Wade"). Accordingly, you notified Wade of the request 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); *see also* Open Records Decision No. 542 (1990) (determining that 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 received comments from Wade and reviewed the submitted arguments and information.

Initially, we note Wade argues against the release of information the city does not consider responsive to the request and that was not submitted by the city. Our ruling is limited to what the city has submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Thus, we only address Wade's arguments against the release of the submitted information.

Wade contends portions of the submitted information are excepted under 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.*; *see also* Open Records Decision No. 661 at 5-6 (1999). Upon review of Wade's arguments and the information at issue, we find Wade has established its pricing information, which we have marked, constitutes commercial or financial information, the release of which would cause it substantial competitive harm. However, Wade seeks to withhold information reflecting the city's past expenses in the city's administration of its own impound. Wade has failed to demonstrate how this information, which does not pertain to its company, constitutes commercial or financial information the release of which will cause Wade substantial competitive harm. Therefore, the city must only withhold the marked pricing information under section 552.110(b). The city must release the remaining submitted information.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 402218

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Jody R. Wade  
Jody Wade Enterprises, LLC  
P.O. Box 1350  
Wichita Falls, Texas 76307  
(w/o enclosures)