



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 5, 2011

Mr. Warren M.S. Ernst  
Chief, General Counsel Division  
Office of the City Attorney  
City Hall  
Dallas, Texas 75201

OR2011-06220

Dear Mr. Ernst:

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# 416448.

The City of Dallas (the "city") received a request for information pertaining to a specified contract for industrial labor services, specifically including the original bid documents, surety bond, and certificate of insurance. You state you will release some information to the requestor. Although you raise no exceptions to disclosure of the submitted information, you state release of this information may implicate the proprietary interests of Recana Solutions ("Recana"). Accordingly, you inform us you have notified Recana of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *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 applicability of exception in certain circumstances). We have reviewed the submitted information.

We note 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 requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Recana has not submitted any comments to this office explaining how release of the submitted information would affect

its proprietary interests. Accordingly, none of the information at issue may be withheld on the basis of the proprietary interests of Recana. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret).

We note a portion of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 provides “[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.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Accordingly, the city must withhold the bank account number we have marked under section 552.136 of the Government Code.<sup>2</sup> The city must release the remaining 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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including a bank account number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 416448

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Albert Eaddy  
Recana Solutions  
P.O. Box 110283  
Carrollton, Texas 75011  
(w/o enclosures)