



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 17, 2011

Ms. Rebecca Brewer
Abernathy, Roeder, Boyd & Joplin, P.C.
For City of Frisco
P.O. Box 1210
McKinney, Texas 75070-1210

OR2011-06952

Dear Ms. Brewer:

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# 417727.

The City of Frisco (the "city"), which you represent, received a request for the winning proposal, contract, and any modifications for RFQ ESCO 1008-059. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also indicate that release of the submitted information may implicate the proprietary interests of Schneider Electric Buildings America, Inc. ("Schneider"). Accordingly, you indicate you have notified Schneider of the request and of the company's right to submit arguments to this office as to why the requested 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 applicability of exception to disclosure in certain circumstances). We have received comments from Schneider. We have considered the submitted arguments and reviewed the submitted information.

The city raises section 552.110 of the Government Code for the information at issue. We note that section 552.110 is designed to protect the interests of third parties such as Schneider, not the interests of a governmental body. Thus, we do not address the city's arguments under section 552.110.

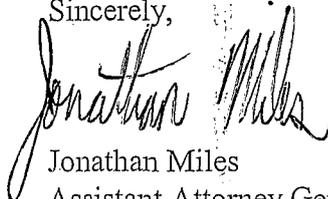
Schneider asserts its information is excepted from disclosure pursuant to section 552.104 of the Government Code, which excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. Section 552.104, however, is a discretionary exception that protects only the interests of a governmental body, as distinguished from exceptions that are intended to protect the interests of third parties. *See* Open Records Decision Nos. 592 (1991) (statutory predecessor to section 552.104 designed to protect interests of governmental body in competitive situation, and not interests of private parties submitting information to government), 522 (1989) (discretionary exceptions in general). As the city does not seek to withhold Schneider's information under this exception, no portion of the submitted information may be withheld on this basis.

Schnieder also raises section 552.1175 of the Government Code for the submitted information. This section excepts from public disclosure the home addresses and telephone numbers, social security numbers, and family member information of specified categories of governmental body employees or officials. *See* Gov't Code § 552.1175(a)-(b). Upon review of the submitted information, we find it does not contain the home addresses and telephone numbers, social security numbers, or family member information of any persons falling within the specified categories of governmental body employees listed in section 552.1175. Thus, none of the submitted information may be withheld under section 552.1175 of the Government Code. As no further exceptions are raised, 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 417727

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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Carrollton, Texas 75006
(w/o enclosures)