



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 27, 2011

Ms. Pegi Wolbrueck
Workforce Solutions Brazos Valley Board
P.O. Drawer 4128
Bryan, Texas 77805

OR2011-07553

Dear Ms. Wolbrueck:

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# 418877 (PIR# 2011 0307 001 113).

The Workforce Solutions Brazos Valley Board (the "board") received a request for the winning proposal and rating sheets related to a specified request for proposals.¹ We understand you have released the rating sheets to the requestor. You claim that a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state that the request may implicate the proprietary interests of Gaylen Lange, d/b/a GLI ("GLI"). Accordingly, you notified GLI of this request for information and of its right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

We note that 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, this office has not received

¹We understand the board received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear, governmental body may ask requestor to clarify request).

comments from GLI explaining why the submitted information should not be released. Therefore, we have no basis to conclude that GLI has a protected proprietary interest in the 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. Accordingly, the board may not withhold any portion of the submitted proposal based upon GLI's proprietary interests.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has found that personal financial information not related to a financial transaction between an individual and a governmental body is intimate and embarrassing and of no legitimate public interest. *See* Open Records Decision Nos. 600 (1992), 545 (1990), 523 (1989), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). We note common-law privacy protects the interests of individuals, not those of corporate and other business entities. *See* Open Records Decision Nos. 620 (1993) (corporation has no right to privacy), 192 (1978) (right to privacy is designed primarily to protect human feelings and sensibilities, rather than property, business, or other pecuniary interests); *see also United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950) (cited in *Rosen v. Matthews Constr. Co.*, 777 S.W.2d 434 (Tex. App.—Houston [14th Dist.] 1989), *rev'd on other grounds*, 796 S.W.2d 692 (Tex. 1990)) (corporation has no right to privacy). We find a portion of the submitted information, which we have marked, constitutes personal financial information of an individual that is not related to a transaction between an individual and a governmental body. This personal financial information is intimate or embarrassing and of no legitimate public interest. Accordingly, the board must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information you seek to withhold relates to the financial information of another governmental body. Accordingly, the board may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy. 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, 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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 418877

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Gayle Lange
c/o Ms. Pegi Wolbrueck
Workforce Solutions Brazos Valley Board
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Bryan, Texas 77805
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