



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 13, 2011

Ms. Mari M. McGowan  
Abernathy Roeder Boyd & Joplin P.C.  
P.O. Box 1210  
McKinney, Texas 75070-1210

OR2011-08364

Dear Ms. McGowan:

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# 420355.

The Blue Ridge Independent School District (the "district"), which you represent, received a request for request for proposals received by the district for a specified depository contract. You claim that the submitted information is excepted from disclosure under section 552.110 of the Government Code.<sup>1</sup> Further, you state release of the submitted information may implicate the proprietary interests of First National Bank of Trenton ("First National"). Accordingly, you state, and provide documentation showing, the district notified First National of the request and its 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 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 First National. We have considered the submitted arguments and reviewed the submitted information.

Although the district argues the submitted information is excepted from disclosure under section 552.110 of the Government Code, we note that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the district's argument under section 552.110. We will, however, address the First National's arguments under section 552.110. First National raises section 552.110(b) for

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<sup>1</sup>Although you also raise section 552.101 of the Government Code as an exception to disclosure, you have provided no arguments regarding the applicability of this section. We, therefore, assume you no longer assert this section. *See* Gov't Code §§ 552.301(b), (e), .302.

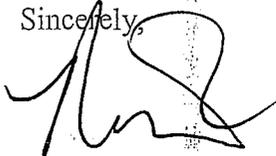
portions of its submitted information. Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). 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) (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).

Upon review, we find First National has established that the release of its pricing information and customer references we have marked would cause the company substantial competitive harm. Thus, the district must withhold this information under section 552.110(b) of the Government Code. As to the remaining information, we find First National has made only conclusory allegations that release of any of the remaining information would result in substantial competitive injury and has provided no specific factual or evidentiary showing to support such allegations. *See generally* Open Records Decision Nos. 661, 509 at 5 (1988) (because costs, bid specifications, and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts is too speculative). Accordingly, the district may not withhold any of the remaining information under section 552.110(b) of the Government Code. As no further exceptions to disclosure have been raised, 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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 420355

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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(w/o enclosures)