



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2011

Ms. Lauren O'Connor
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2011-11546

Dear Ms. O'Connor:

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# 426540 (COSA File No. W001343-052511).

The City of San Antonio (the "city") received a request for the bid proposals submitted by Hospital Klean of Texas, Inc. ("HKT"); Lencom, Inc. d/b/a Lentz Painting ("Lentz"); Raul's Landscape Service ("RLS"); and Under Construction, Inc. ("UC") in response to RFP 2010-084-VS. You state the city has provided some of the requested information to the requestor. Although you state the city takes no position with respect to the public availability of the submitted bid proposals, you state their release may implicate HKT's, Lentz's, RLS's, and UC's proprietary interests. Accordingly, you state, and provide documentation showing, the city notified the third parties of each company's 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 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 reviewed the submitted information.

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). Although you state HKT, Lentz, RLS, and UC each informed the city they want portions of their bid proposals to be withheld, as of the date of this letter, we have not received any comments from HKT, Lentz, RLS, or UC explaining why their submitted information should not be released. Therefore, we have no basis to conclude any of the third parties have protected proprietary interests in their 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. Consequently, the city may not withhold any of the submitted information on the basis of any proprietary interests HKT, Lentz, RLS, or UC may have in the information.

We note RLS's information contains a driver's license number and vehicle identification numbers. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release.¹ Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as amendments to Gov't Code § 552.130(a)(1), (2)). The city must withhold the driver's license and vehicle identification numbers we have marked in RLS's bid proposal under section 552.130 of the Government Code.

We note all of the submitted bid proposals contain insurance policy numbers. Section 552.136 of the Government Code provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding 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.

Gov't Code § 552.136. We conclude the insurance policy numbers we have marked constitute access device numbers for purposes of section 552.136. Thus, the city must withhold the marked insurance policy numbers under section 552.136 of the Government Code.

In summary, the city must withhold the driver's license and vehicle identification numbers we have marked in RLS's bid proposal under section 552.130 of the Government Code. The

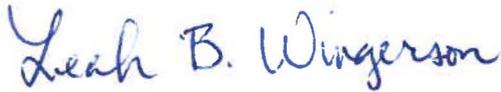
¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

city must withhold the insurance policy numbers we have marked in all of the bid proposals under section 552.136 of the Government Code.² 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, 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 426540

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Raul Cerda
Raul's Landscape Service
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(w/o enclosures)

²We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code and insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ms. Liz Lentz
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