



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 28, 2012

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2012-10010

Dear Ms. Pemberton:

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# 457486 (Killeen Ref. No. W007794).

The City of Killeen (the "city") received a request for the signed contract, specified evaluations, a specified list of companies, and any performance-related contracts pertaining to request for proposal number 11-10. You state the city has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You state the information at issue may implicate the proprietary interests of third parties. You further state you have notified Allied International Credit, Corp. ("Allied") and Credit Systems International, Inc. ("CSI") of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

You raise section 552.110 of the Government Code. We note, however, section 552.110 is designed to protect the interests of third parties, such as Allied and CSI, not the interests of a governmental body. Thus, we do not address your arguments under section 552.110 of the Government Code, and the submitted information may be withheld under section 552.110

based only on arguments from Allied or CSI. 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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from either Allied or CSI. We, thus, have no basis for concluding any portion of the submitted information constitutes the proprietary information of these third parties. *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 city may not withhold any of the submitted information based on the proprietary interests of Allied or CSI. As no other exceptions to disclosure have been 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,



Michelle R. Garza
Assistant Attorney General
Open Records Division

MRG/som

Ref: ID# 457486

Enc. Submitted documents

c: Requestor
(w/o enclosures)