



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 3, 2012

Mr. Eric D. Bentley
Assistant General Counsel
Office of General Counsel
University of Houston System
311 East Cullen Building
Houston, Texas 77204-2028

OR2012-10222

Dear Mr. Bentley:

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# 457976.

The University of Houston (the "university") received a request for the university's current electricity agreement for all Houston and surrounding area campuses. Although you take no position as to the public availability of the submitted information, you believe the information at issue may implicate the proprietary interests of Noble Americas Energy Solutions, L.L.C. ("Noble Americas"). Accordingly, you notified Noble Americas of the request for information and of its right to submit arguments stating why the information at issue 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); *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 Noble Americas. We have considered the submitted arguments and reviewed the submitted information.

Initially, you inform us that some of the submitted documents are not responsive to the instant request for information because they are not part of the current electricity agreement of the university. This ruling does not address the public availability of any information that

is not responsive to the request and the university is not required to release such information in response to this request.

Noble Americas contends portions of the responsive information are subject to section 552.110(b) of the Government Code. 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.* § 552.110(b); Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm).

Noble Americas contends the information it has marked is commercial or financial information, release of which would cause substantial competitive harm to Noble Americas. Upon review of Noble Americas’ arguments under section 552.110(b), however, we find Noble Americas has made only conclusory allegations that release of the information at issue would cause it substantial competitive injury, and has provided no specific factual or evidentiary showing to support such allegations. *See* Gov’t Code § 552.110(b); *see also* Open Records Decision Nos. 509 at 5 (1988) (stating that 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 was entirely too speculative). Further, the terms of a contract with a governmental body are generally not excepted from public disclosure. *See* Gov’t Code 552.022(a)(3) (contract involving receipt or expenditure of public funds made expressly public); Open Records Decision No. 541 at 8 (1990) (public has interest in knowing terms of contract with state agency). We therefore conclude the university may not withhold any of the responsive information under section 552.110(b) of the Government Code.

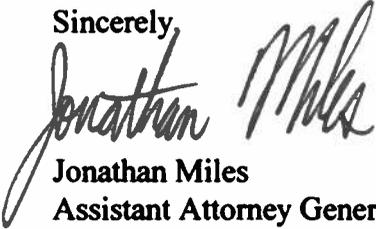
We note the submitted information contains bank account and bank routing numbers subject to section 552.136 of the Government Code.¹ Section 552.136 provides “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *See* Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Therefore, the university must withhold the bank account and bank routing numbers we have marked under section 552.136 of the Government Code. As no further exceptions are raised, the remaining information must be released.

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).

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/bhf

Ref: ID# 457976

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)