



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 22, 2013

Mr. David F. Brown  
For the Texas Windstorm Insurance Association  
Ewell, Bickham, Brown & Rabb, L.L.P.  
111 Congress Avenue, Suite 400  
Austin, Texas 78701

OR2013-01240

Dear Mr. Brown:

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# 476773.

The Texas Windstorm Insurance Association (the "association"), which you represent, received a request for information pertaining to the association's total cost of "maintaining compliance of [a]dministrative oversight" as recommended by the Texas Department of Insurance during a specified period of time, including paid invoices filed by a named company. You state some information will be provided to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Alvarez & Marsal Insurance Advisory Services, L.L.C. ("AMIAS"). Accordingly, you have notified AMIAS of the request and of 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) (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 the circumstances). We have received comments from the Texas Department of Insurance and AMIAS.<sup>1</sup> We have considered the submitted arguments and reviewed the submitted information.

AMIAS asserts portions of the submitted information consists of commercial or financial information, the release of which would cause the company substantial

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<sup>1</sup>The Texas Department of Insurance does not object to disclosure of any of the submitted information.

competitive harm. 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).

AMIAS argues release of the rates and the amount of time spent by the employees named in the submitted invoices would cause the company substantial competitive harm. Upon review, we conclude AMIAS has established the release of some of the information at issue, which we have marked, would cause the company substantial competitive injury. Therefore, the association must withhold the information we have marked under section 552.110(b). However, we find AMIAS has not made the specific factual or evidentiary showing required by section 552.110(b) that release of any of the remaining information at issue would cause the company substantial competitive harm. *See* Open Records Decision No. 319 at 3 (1982) (statutory predecessor to Gov’t Code § 552.110 generally not applicable to information relating to organization and personnel, market studies, professional references, qualifications and experience). We note the pricing information of a government contractor is generally not excepted under section 552.110(b) because we believe the public has a strong interest in the release of prices charged by a government contractor. *See* Open Records Decision Nos. 514 (1988) (public has interest in knowing prices charged by government contractors), 319 at 3 (1982) (information relating to pricing is not ordinarily excepted from disclosure under statutory predecessor to section 552.110). *See generally* Dep’t of Justice Guide to the Freedom of Information Act 344-345 (2009) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). Accordingly, the association may not withhold any of the remaining information at issue under section 552.110(b) of the Government Code.

The association and AMIAS raise section 552.136 for portions of the remaining information. Section 552.136 of the Government Code states “[n]otwithstanding 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(b); *see also id.* § 552.136(a) (“defining access device”). This office has determined bank account and routing numbers are access device numbers for purposes of section 552.136. Accordingly, we find the association must withhold the bank account number and the routing number we have marked under section 552.136 of the Government Code.

In summary, the association must withhold the information we have marked under section 552.110(b) of the Government Code and the bank account number and routing

number we have marked under section 552.136 of the Government Code. 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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/dls

Ref: ID# 476773

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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