



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 24, 2013

Mr. David F. Brown  
Counsel for Port of Houston Authority  
Ewell, Bickham & Brown, L.L.P.  
111 Congress Ave, Suite 400  
Austin, Texas 78701

OR2013-06748

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# 485550.

The Port of Houston Authority (the "authority"), which you represent, received a request for the winning depository bid received by the authority at the last request for proposals submitted in February 2011, and all pertinent information that allowed the authority to reach its decision for Depository Bank. Although you take no position on the requested information, you state it may contain proprietary information subject to exception under the Act. Accordingly, you state and provide documentation showing the authority notified Citibank, N.A. ("Citibank") of the request for information 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); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the 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 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, this office has not received comments from Citibank explaining why the submitted information should not be released to the requestor. Therefore, we have no basis to conclude Citibank has a protected interest in the submitted 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. Accordingly, the authority may not withhold any of the submitted information based upon the interests of Citibank.

We also note that some of the information has been blacked out from the copy of the bid in which you have submitted for review. Section 552.301 of the Government Code requires a governmental body to submit responsive information in a manner that permits this office to review the information. *See* Gov't Code § 552.301(e)(1)(D). A governmental body that submits redacted information can be found in violation of the procedural requirements of section 552.301, resulting in a determination that the information at issue must be released. *See* Gov't Code §§ 552.006, .301, .302. In this case, because you have not claimed an exception to disclosure and because we have not received any arguments from Citibank explaining why the requested information should not be released, we determine the authority must release the information at issue to the requestor. Therefore, we do not reach the issue of the authority's failure to submit the bid in reviewable form. In concluding that the requested information must be released, however, we emphasize that to the extent the authority maintains the information at issue in non-redacted form, the authority must release the non-redacted version of the requested documents to the requestor.<sup>1</sup>

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,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/dls

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<sup>1</sup>We note some of the blacked out information consists of account numbers subject to section 552.136 of the Government Code. Section 552.136 of the Government Code permits a governmental body to redact the information described in section 552.136(b) without the necessity of requesting a decision from this office. *See* Gov't Code § 552.136(c)-(e) (providing procedures for redaction of information).

Ref: ID# 485550

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Jason T. Wiley  
Citibank, N.A.  
3900 Paradise Road  
Las Vegas, Nevada 89101  
(w/o enclosures)