



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2013

Ms. Sol M. Cortez
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2013-12347

Dear Mr. Cortez:

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# 493482.

The City of El Paso (the "city") received a request for the following information pertaining to solicitation number 2013-111R: the proposal submitted by Duncan Solutions ("Duncan"), individual committee scoring sheets, including any associated notes, and any other documents the city received from Duncan. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Duncan. Accordingly, you state, and provide documentation showing, you notified Duncan of the request for information and of its 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) (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.

Initially, you indicate the requestor has excluded tax identification numbers and insurance policy numbers from his request. Accordingly, these types of information are not responsive to the instant request. The city need not release nonresponsive information in response to this request, and this ruling will not address that information.

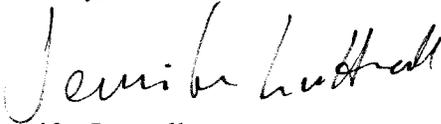
We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't

Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Duncan explaining why its information should not be released. Therefore, we have no basis to conclude Duncan has a protected proprietary 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 city may not withhold any of the information at issue on the basis of any proprietary interest Duncan may have in it. As no exceptions to disclosure have been raised, the responsive 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 493482

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Asaf Salama
Duncan Solutions
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Milwaukee, Wisconsin 53203
(w/o enclosures)