



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 8, 2013

Mr. Claud Drinnen
Deputy City Attorney
Legal Department
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR2013-17437

Dear Mr. Drinnen:

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# 501524.

The City of Amarillo (the "city") received a request for the non-confidential portion of the proposal submitted by Tailwind MC, LLC ("Tailwind") for proposal P11-12, Development and Management of a Food, Beverage, and Gift Shop Concession at Rick Husband Amarillo International Airport.¹ You state you have released some information to the requestor. Although you take no position with respect to the public availability of the remaining requested information, you state release of this information may implicate the proprietary interests of Tailwind. Accordingly, you state and provide documentation showing, you have notified Tailwind 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 (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 Tailwind. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered the requestor's

¹We note the city received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

comments. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Generally, the Act authorizes the Office of the Attorney General to render decisions and opinions in two situations. The first occurs when a governmental body receives a written request for information from an individual or entity acting as a member of the public and requests a ruling from this office because the governmental body wishes to withhold responsive information in accordance with one of the Act's exceptions to disclosure. *See id.* §§ 552.301, .306. The second situation occurs when this office issues "materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on [the Act]" in order to "maintain uniformity in the application, operation, and interpretation of [the Act.]" *Id.* § 552.011.

The requestor only seeks the portion of Tailwind's proposal that is not designated as "confidential or proprietary" and specifically excludes any information identified as "confidential or proprietary." However, we note you have only submitted information that was specifically excluded from the request. Thus, we conclude the submitted information is not responsive to the request for information. The Act does not require a governmental body to release non-responsive information. Therefore, because this situation falls outside of the Act and beyond the scope of this office's authority to render a decision, we consider this matter closed. If you have any questions with regard to this letter, please refer to ID# 501524.

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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID#501524

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Alan Giaquinto
CEO
Tailwind MC, LLC
1740 Airport Boulevard, Suite 16
Wilmington, North Carolina 28405
(w/o enclosures)