



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 26, 2017

Ms. Ann-Marie Sheely
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2017-11621

Dear Ms. Sheely:

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# 659704.

The Travis County Purchasing Office (the "county") received a request for all proposals submitted in response to a specified request for proposals. Although you take no position as to whether the submitted information is excepted from release under the Act, you state release of this information may implicate the proprietary interests of GrantWorks, Inc. ("GrantWorks"). Accordingly, you state, and provide documentation showing, you notified GrantWorks of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released.¹ *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.

¹We note, and you acknowledge, the county did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nevertheless, because the interests of third parties can provide a compelling reason to overcome the presumption of openness, we will consider whether the submitted information is excepted from disclosure. *See id.* §§ 552.007, .302, .352.

Initially, you state some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-05769 (2017). In that ruling, we determined the county may withhold certain information under section 552.104(a) of the Government Code and must release the remaining information. The law, facts, or circumstances on which the prior ruling was based have not changed. Thus, the county may continue to rely on Open Records Letter No. 2017-05769 as a previous determination and withhold or release withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address the submitted information, which was not subject to the previous ruling.

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) of the Government Code 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 GrantWorks explaining why the submitted information should not be released. Therefore, we have no basis to conclude GrantWorks 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 county may not withhold any portion of the submitted information on the basis of any proprietary interest GrantWorks may have in the information.

In summary, the county may continue to rely on Open Records Letter No. 2017-05769 as a previous determination and withhold or release withhold the identical information in accordance with that ruling. The county must release the submitted information.

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,

A handwritten signature in black ink, appearing to read "Tim Neal". The signature is fluid and cursive, with the first name "Tim" being more prominent than the last name "Neal".

Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 659704

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)