



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 6, 2017

Ms. Sharen Wilson  
Criminal District Attorney  
County of Tarrant  
401 West Belknap  
Fort Worth, Texas 76196

OR2017-27683

Dear Ms. Wilson:

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# 686933.

The Tarrant County Purchasing Department (the "county") received a request for information pertaining to a specified bidding situation. Although you take no position as to whether the submitted information is excepted under the Act, you state release of some of this information may implicate the proprietary interests of SHI Government Solutions; Computer Solutions, Inc. ("Computer Solutions"); ELP Enterprises, Inc. d/b/a MC Business Products; Insight; Southern Computer Warehouse, Inc.; TonerTiger, Inc.; Archive Supplies, Inc.; CDW Government, LLC; CompuCom Systems; GovConnection, Inc. d/b/a connection; Delcom Group, LP; Enhanced Laser Products; and Global Asset. Accordingly, you state, and provide documentation demonstrating, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 received comments from Computer Solutions. We have reviewed the submitted information and considered the submitted arguments.

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 any of the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the remaining third parties have 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 the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

Section 552.104(a) of the Government Code excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The “test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage.” *Id.* at 841. Computer Solutions states it has competitors. In addition, Computer Solutions states release of its information at issue would grant an unfair advantage to the requestor in future bid events. After review of the information at issue and consideration of the arguments, we find Computer Solutions has established the release of its information at issue would give advantage to a competitor or bidder. Thus, we conclude the county may withhold Computer Solutions's information at issue under section 552.104(a) of the Government Code.

The remaining documents also include information that is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 of the Government Code provides, “Notwithstanding any other provision of [the Act], 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 id.* § 552.136(a) (defining “access device”). Accordingly, the county must withhold the account number we marked in the remaining information under section 552.136 of the Government Code.

In summary, the county may withhold Computer Solutions's information at issue under section 552.104 of the Government Code. The county must withhold the account number we marked under section 552.136 of the Government Code. The county must release the remaining information.

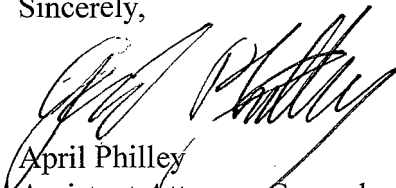
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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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,



April Philley  
Assistant Attorney General  
Open Records Division

AP/som

Ref: ID# 686933

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

14 Third Parties  
(w/o enclosures)