



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2013

Ms. Susana Carbajal
Assistant City Attorney
City of Austin Aviation Department
3600 Presidential Boulevard, Suite 411
Austin, Texas 78719

OR2013-08283

Dear Ms. Carbajal:

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# 487973 (Austin PIR #15189).

The City of Austin (the "city") received a request for the contract the Austin-Bergstrom International Airport has with Clear Channel Airports ("Clear Channel") for advertising and the financial reports from the inception of the contract to date regarding revenues received from the contract. You state you have released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Clear Channel. Accordingly, you state, and provide documentation showing, you notified Clear Channel 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

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 Clear Channel explaining why the submitted information should not be released. Therefore, we have no basis to conclude Clear Channel 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Clear Channel may have in the information. As no exceptions to disclosure have been raised, the submitted 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.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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/dls

Ref: ID# 487973

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Clear Channel Airports
Attn: Legal Department
4635 Crackersport Road
Allentown, Pennsylvania 18104
(w/o enclosures)