



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2013

Mr. Robert K. Nordhaus
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2013-13706

Dear Mr. Nordhaus:

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# 495660 (ORR # W015589-051613).

The City of San Antonio (the "city") received a request for the bid score sheets and pricing spreadsheets submitted by all respondents to a specified RFP. You state the city has released the bid score sheets to the requestor. Although you take no position with respect to the public availability of the remaining requested information, you state the proprietary interests of a certain third party might be implicated. Accordingly, you notified PSC Environmental Services, L.L.C. ("PSC") of the request and of its right to submit arguments to this office explaining why its information should not be released.¹ *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from PSC. Thus, we have considered its arguments and reviewed the submitted information.

¹We note the requestor in this case is the remaining third party whose information is at issue. Thus, the requestor has a right of access to his own company's information.

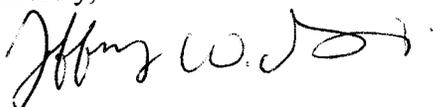
PSC raises section 552.110(b) of the Government Code to withhold its submitted information. Section 552.110(b) protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.* § 552.110(b); Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm).

PSC argues release of its pricing spreadsheet would give its competitors an advantage. Upon review, we find PSC has established release of its pricing information would result in substantial competitive harm. Accordingly, the city must withhold PSC’s pricing information, which we have marked, under section 552.110(b) of the Government Code. However, upon review, we find PSC has not established any of the remaining information in its pricing spreadsheet constitutes commercial or financial information, the disclosure of which would cause it substantial competitive harm. Therefore, the city may not withhold any of the remaining information under section 552.110(b) of the Government Code. As no further exceptions to disclosure were raised, the remaining 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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 495660

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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