



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2014

Mr. Chris Sterner
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2014-01830

Dear Mr. Sterner:

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# 513676 (OOG# 317-13).

The Office of the Governor (the "governor's office") received a request for (1) the proposal and public information reports of the Women's Institute for Technology Employment Training ("WINTEC") for 2011 and 2012 and (2) the proposal MEDITEC awarded to the Texas Valley Communities Foundation (the "foundation"). You state the governor's office does not have the requested MEDITEC proposal.¹ The governor's office does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, you state you notified WINTEC of the receipt of the request for information and of WINTEC's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 correspondence from the foundation objecting to the release of the responsive information.² *See* Gov't Code § 552.304 (interested party may

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

²We understand the foundation asserts section 552.110 on its own behalf and on behalf of WINTEC.

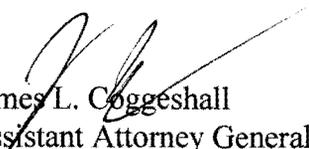
submit comments stating why information should or should not be released). We have reviewed the submitted arguments and information.

The foundation asserts the information at issue is excepted from disclosure under section 552.110(b) of the Government Code, which excepts from disclosure “[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). Section 552.110(b) requires a specific factual or evidentiary showing, not conclusory or generalized allegations, substantial competitive injury would likely result from release of the requested information. *See* Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence release of information would cause it substantial competitive harm). Having considered the foundation’s arguments and reviewed the information at issue, we find the foundation has made only conclusory allegations that release of the information at issue would cause it or WINTEC substantial competitive injury and has provided no specific factual or evidentiary showing to support such allegations. *See id.* § 552.110(b). Therefore, the governor’s office may not withhold any of the information pursuant to section 552.110(b). Accordingly, the governor’s office must release the submitted information to the requestor.

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 513676

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Dr. Roland S. Arriola
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(w/o enclosures)