



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 7, 2014

Ms. Eileen M. Hayman
Counsel for the City of Hamlin
Messer, Rockefeller & Fort, PLLC
4400 Buffalo Gap Road, Suite 2800
Abilene, Texas 79606

OR2014-05663

Dear Ms. Hayman:

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# 518978.

The City of Hamlin (the "city"), which you represent, received a request for all bids other than the requestor's submitted in response to the city's request for proposals for solid waste services. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code.¹ Additionally, you state release of the submitted information may implicate the proprietary interests of Knox Waste Services ("Knox"). Accordingly, you state, and provide documentation showing, you notified Knox 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 arguments and information.

You contend the submitted information is excepted from disclosure under section 552.110 of the Government Code. Section 552.110 protects (1) trade secrets and (2) commercial or financial information the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110(a)-(b). We note section 552.110 protects the interests of private parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally*

¹Although you raise section 552.021 of the Government Code, we note this provision is not an exception to disclosure under the Act. *See* Gov't Code § 552.021 (providing public information is available during normal business hours).

Open Records Decision No. 592 (1991). Accordingly, we do not consider the city's arguments under section 552.110.

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



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 518978

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Matt Knox
Vice President
Knox Waste Service
P.O. Box 569
Tye, Texas 79563
(w/o enclosures)