



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2014

Ms. Kerri L. Butcher
Chief Counsel
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR2014-07165

Dear Ms. Butcher:

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# 521302.

The Capital Metropolitan Transportation Authority (the "authority") received a request for a copy of the winning proposal submitted in response to a specified request for quotes. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code.¹ Additionally, you state the release of the submitted information may implicate the proprietary interests of Nelson/Nygaard Consulting Associates ("Nelson"). Accordingly, you state, and provide documentation showing, you notified the third party of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have considered the exception you raise and reviewed the submitted information.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating

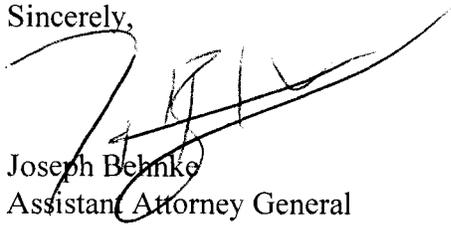
¹We note that although you also raise sections 552.301, 552.303, and 552.305 of the Government Code, these are not exceptions to disclosure under the Act. *See* Gov't Code §§ 552.301 (providing procedural requirements for requesting ruling), .303 (pertaining to delivery of requested information to Attorney General, disclosure of requested information, and Attorney General request for submission of additional information), .305 (addressing the procedural requirements for notifying third parties that their interests may be affected by a request for information).

to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from Nelson. Thus, Nelson has not demonstrated it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)–(b); 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. Although you raise section 552.110 of the Government Code, we note section 552.110 protects the interests of third parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally* Open Records Decision No. 592 (1991). As such, we do not address the authority's argument under section 552.110 on behalf of the third party. Accordingly, the authority may not withhold the submitted information on the basis of any proprietary interests Nelson may have in the information. As there are no further arguments against disclosure, the authority 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 521302

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Richard Weiner
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(w/o enclosures)