



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 24, 2014

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2014-19218

Dear Ms. Nicholson:

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# 540835.

The City of Austin, Department of Aviation (the "city") received a request for the monthly revenue reports received from Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports ("Clear Channel") over a specified time period. Although you state you do not take any position as to whether the submitted information is excepted from disclosure under the Act, 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 (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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 Clear Channel. We have considered the submitted arguments and reviewed the submitted information.

Clear Channel argues portions of its information are excepted under section 552.110(b) of the Government Code. Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence 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, substantial competitive injury

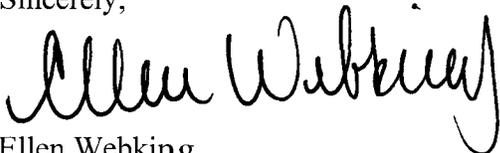
would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm).

Clear Channel claims portions of the submitted information constitute commercial or financial information excepted under section 552.110(b) of the Government Code. Clear Channel states the release of the information it seeks to withhold under section 552.110(b) would cause substantial competitive harm. Upon review, we conclude Clear Channel has established the release of its client information would cause it substantial competitive injury. Accordingly, to the extent the client information is not publicly available on Clear Channel's website, the city must withhold the client information at issue under section 552.110(b). However, we find Clear Channel has not provided specific factual evidence that substantial competitive injury would likely result from the release of the remaining information at issue. Further, we note the pricing information of a winning bidder is generally not excepted under section 552.110(b). *See* Open Records Decision No. 514 (1988) (public has interest in knowing prices charged by government contractors). *See generally* Dep't of Justice Guide to the Freedom of Information Act, 344-345 (2009) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). Thus, we find the city may not withhold any of the remaining information pursuant to section 552.110(b) of the Government Code. As no further exceptions to disclosure are raised, the city must release the remaining 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/ac

Ref: ID# 540835

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Ade B. Galloway
Airport Operations Counsel
Clear Channel Airports
4635 Crackersport Road
Allentown, Pennsylvania 18104
(w/o enclosures)