



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 24, 2014

Ms. Maureen Franz
Deputy Chief Counsel
Texas Health and Human Service Commission
P.O. Box 13247
Austin, Texas 78711

OR2014-21388

Dear Ms. Franz:

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# 544015.

The Texas Health and Human Services Commission (the "commission") received a request for a copy of a specified contract. You state you will release some of the information to the requestor. Although you take no position as to whether the requested information is excepted by the Act, you state release of the requested information may implicate the proprietary interests of KPMG. Accordingly, you state, and provide documentation showing, you notified KPMG of the request and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from KPMG. We have considered the submitted arguments and reviewed the submitted information.

KPMG 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 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

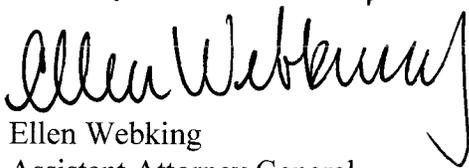
evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm).

KPMG argues portions of its information consist of commercial information, the release of which would cause the company substantial competitive harm under section 552.110(b) of the Government Code. Upon review, we conclude KPMG 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 KPMG's website, the commission must withhold the client information at issue under section 552.110(b). Additionally, we find KPMG has established that the remaining information it seeks to withhold constitutes commercial or financial information, the release of which would cause the company substantial competitive harm. Therefore, the commission must withhold this information under section 552.110(b) of the Government Code.¹ As no further exceptions to disclosure have been raised, the remaining requested 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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/som

¹As our ruling is dispositive for this information, we need not address KPMG's remaining arguments against its disclosure.

Ref: ID#544015

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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