



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 5, 2015

Ms. Jacqueline E. Hojem  
Public Information Coordinator  
Metropolitan Transit Authority of Harris County  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2015-20814

Dear Ms. Hojem:

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# 581769 (MTA No. 2015-0324).

The Metropolitan Transit Authority of Harris County ("METRO") received a request for scoring sheets, pricing from all vendors, and the winning proposal for a specified solicitation. Although METRO takes no position as to whether the submitted information is excepted under the Act, METRO informs us release of this information may implicate the proprietary interests of Hagerty Consulting. Accordingly, METRO states, and provides documentation showing, it notified Hagerty Consulting of the request for information and of its right to submit arguments to this office as to why the information at issue 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 received comments from Hagerty Consulting. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note METRO has only submitted the winning proposal. Thus, to the extent any additional responsive information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664

(2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.110(b) of the Government Code 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).

Hagerty Consulting claims some of its information constitutes commercial or financial information that, if released, would cause it substantial competitive harm. Upon review, we find Hagerty Consulting has failed to demonstrate the release of the information at issue would result in substantial harm to its competitive position. *See* ORD 661 (for information to be withheld under commercial or financial information prong of section 552.110, business must show by specific factual evidence that substantial competitive injury would result from release of particular information at issue). Consequently, METRO may not withhold any of the submitted information under section 552.110(b) of the Government Code. As no further exceptions against disclosure have been raised, the submitted 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](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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 581769

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)