



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2015

Mr. Rodrigo J. Figueroa  
Counsel for City Public Service Board  
Dykema Cox Smith  
112 East Pecan Street, Suite 1800  
San Antonio, Texas 78205

OR2015-25174

Dear Mr. Figueroa:

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# 588883.

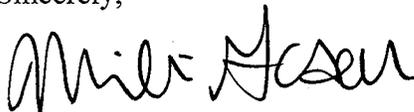
The City Public Service Board of the City of San Antonio d/b/a CPS Energy ("CPS"), which you represent, received a request for the complete list of applicants for a specified position during a specified time period. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state the proprietary interest of a third party might be implicated. Accordingly, you notified Korn/Ferry International ("Korn") of the request and of its right to submit arguments to this office explaining why its 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); *see also* 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 arguments submitted on behalf of Korn. We have considered the arguments and reviewed the submitted information.

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 the governmental bodies themselves. *See generally* Open Records Decision No. 592 (1991). Thus, we do not address CPS's argument under section 552.110 on behalf of Korn. However, Korn contends the submitted information is excepted from disclosure under section 552.110(b) of the Government Code, which 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 (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). Upon review, we find Korn has demonstrated release of the submitted information would cause the company substantial competitive harm. Accordingly, CPS must withhold the submitted information under section 552.110(b) of the Government Code.<sup>1</sup>

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,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

---

<sup>1</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 588883

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Russell H. Falconer  
For Korn/Ferry International  
Gibson Dunn & Crutcher LLP  
2100 McKinney Avenue  
Dallas, Texas 75201  
(w/o enclosures)