



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Ms. Dylbia L. Jefferies Vega
Cameron County Commissioner's Court
Civil Legal Division
1100 East Monroe Street
Brownsville, Texas 78520

OR2015-25409

Dear Ms. Vega:

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# 589660.

The Cameron County Commissioner's Court (the "county") received a request for all correspondence between the county and Annova LNG ("Annova") or Exelon Generation during a specified time period, including all documents and meeting notes pertaining to any proposals to grant Annova economic incentives. You state you will release some information. You claim the submitted information is excepted from disclosure under section 552.131 of the Government Code. We understand the county notified Annova of the county's receipt of the request for information 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); *see also* Open Records Decision No. 542 at 3 (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 Annova.¹ We have considered submitted arguments and reviewed the submitted information.

You claim subsections 552.131(a)(2) and (b) for the submitted information. Section 552.131 of the Government Code relates to economic development information and provides, in part:

¹We note Annova does not object to disclosure of the submitted information.

(a) Information is excepted from [required public disclosure] if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

...

(2) commercial 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.

(b) Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from [required public disclosure].

Gov't Code § 552.131(a)(2), (b). Section 552.131(a) protects the proprietary interests of third parties that have provided information to governmental bodies, not the interests of governmental bodies themselves. We note Annova does not contest the release of any portion of the submitted information. Thus, there has been no demonstration by a third party release of any of the information at issue would cause a third party substantial competitive harm. *See* ORDs 661 at 5-6, 552 at 5. Thus, the county may not withhold any of the information at issue under section 552.131(a)(2) of the Government Code.

Section 552.131(b) of the Government Code protects information about a financial or other incentive that is being offered to a business prospect by a governmental body or another person. Gov't Code § 552.131(b). You state portions of the submitted information consist of drafts of a financial incentives contract still under negotiation. Upon review, we find the information we have marked consists of information about financial or other incentives being offered to a business prospect by the county. Accordingly, the county may withhold the information we have marked under section 552.131(b) of the Government Code.

We note portions of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the county may withhold the information we have marked under section 552.131(b) of the Government Code. As no other exceptions to disclosure have been raised, the county must release the remaining information; however, any information subject to copyright may be released only in accordance with copyright law.

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 589660

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Annova LNG
c/o Mr. Steven D. Moore
Jackson Walker
100 Congress Avenue, Suite 1100
Austin, Texas 78701
(w/o enclosures)