



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2016

Ms. Christine M. Wallentine
City Secretary
City of Denison
P.O. Box 347
Denison, Texas 75021

OR2016-20394

Dear Ms. Wallentine:

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# 625814.

The City of Denison (the "city") received a request for a specified contract. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code.¹ Additionally, you state release of this information may implicate the proprietary interests of Schneider Electric ("Schneider"). Accordingly, you state you notified Schneider 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 considered the exception you claim 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 governmental bodies themselves. *See* Gov't Code § 552.110 (excepts from disclosure trade secret or commercial or financial information obtained from third party); *see generally* Open Records Decision No. 592 (1991). Thus, we do not address your argument under section 552.110. We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As

¹Although you also raise sections 552.101 and 552.104 of the Government Code, you have provided no arguments explaining how these exceptions are applicable to the submitted information. Therefore, we assume you no longer assert these exceptions. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

of the date of this letter, we have not received comments from Schneider explaining why the submitted information should not be released. Therefore, we have no basis to conclude Schneider has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 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), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest Schneider may have in the information. As no other exceptions to disclosure have been raised, the city must release the 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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 625814

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)