



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 9, 2010

Mr. Rodrigo J. Figueroa  
Cox Smith Matthews Incorporated  
112 East Pecan Street, Suite 1800  
San Antonio, Texas 78205

OR2010-12014

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# 389710.

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 names and resumes of the General Manager/CEO finalists. You state that CPS provided some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.110, and 552.133 of the Government Code. You also state that the submitted documents may contain proprietary information of a third party subject to exception under the Act. Accordingly, you state, and provide documentation showing, that CPS notified Korn/Ferry International ("Korn") of the request for information and of Korn's right to submit arguments to this office as to why the submitted information 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). Korn has responded to this notice. We have considered the submitted arguments and reviewed the submitted information.

We first address Korn's arguments against disclosure of the submitted information. 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) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm). Upon review of Korn's arguments, Korn has demonstrated that release of the information at issue would cause the company substantial competitive harm. Therefore, CPS must withhold the information at issue under section 552.110(b) of the Government Code. As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christopher D. Sterner  
Assistant Attorney General  
Open Records Division

CDSA/eeg

Ref: ID# 389710

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)

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