



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 21, 2010

Mr. David M. Douglas  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-2268

OR2010-14271

Dear Mr. Douglas:

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# 394139.

The City of Austin (the "city") received a request for all information pertaining to the installation or monitoring of surveillance cameras by the city's police department. Although you take no position with respect to the public availability of the submitted information, you state that the submitted documents may contain proprietary information of third parties subject to exception under the Act. Accordingly, you state, and provide documentation showing, that the city notified Cisco Sales ("Cisco"); Coleman Technologies, Inc. ("Coleman"); and MCS Commercial Fire & Safety ("MCS") of the request for information and of their 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). Cisco has responded to this notice. We have considered Cisco's argument and reviewed the submitted information.

We first address Cisco's assertion that its information is not responsive to the request for information, which seeks all information pertaining to the installation or monitoring of surveillance cameras by the city's police department. Cisco states that its information consists of a proposed product solution, rather than information pertaining to the physical or

actual installation and monitoring of the cameras. We note a governmental body must make a good-faith effort to relate a request to information that it holds. *See* Open Records Decision No. 561 at (1990) (construing statutory predecessor). The city has submitted Cisco's information, which the city deems to be responsive to this request for information. Upon review of the submitted information, we conclude the city has made a good-faith effort to relate the request to responsive information. Therefore, we will determine whether Cisco's information, as well as the remaining submitted information, must be released to the requestor.

Next, we note, and you acknowledge, that the city failed to meet the deadlines prescribed by section 552.301 of the Government Code in submitting a portion of the responsive information to this office. *See* Gov't Code § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Accordingly, we will consider whether the interests of the third parties provide a compelling reason to withhold any portion of the submitted information from disclosure.

An interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Coleman and MCS have not submitted comments to this office explaining why any portion of the submitted information relating to them should not be released to the requestor. Further, although Cisco has submitted comments to this office, it does not argue that any exceptions to disclosure apply in this instance. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate the proprietary interests of Cisco, Coleman, or MCS. Accordingly, none of the information at issue may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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). As there are no further arguments against disclosure, the submitted information must be released to the requestor.

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# 394139

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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