



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2010

Mr. Mark Adams
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2010-15130

Dear Mr. Adams:

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# 395699.

The Office of the Governor (the "governor") received a request for a specified Texas Enterprise Zone application and supporting documentation. You state you will release some information to the requestor. Although you raise no exceptions to disclosure of the requested information, you state release of this information may implicate the proprietary interests of a third party, Total Petrochemicals, Inc. ("Total"). Thus, pursuant to section 552.305 of the Government Code, you notified Total of the request and of its right to submit arguments to this office as to why the information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from a representative of Total. We have considered the submitted comments and reviewed the submitted information.

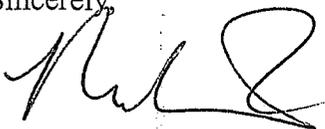
Total contends its submitted information is excepted from disclosure under section 552.110(b) of the Government Code. Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive 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. *See* Open Records Decision No. 661 at 5-6 (1999). Total states release of its compensation information would cause the company substantial competitive harm. Total explains the information at issue would alert its competitors to unique detailed information concerning the levels of compensation paid by Total with respect to numerous job titles and

positions and would substantially harm its ability to attract, hire and retain the skilled employees required for these job titles and positions. Upon review, we conclude the governor must withhold the information we have marked under section 552.110 of the Government Code.¹ As no further exceptions are raised, the remaining information must be released.

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, 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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 395699

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

Mr. Stephen A. Kuntz
Attorney for Total Petrochemicals USA, Inc.
Fulbright & Jaworski, LLP
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(w/o enclosures)

¹As our ruling is dispositive, we need not address Total's argument under section 552.131 of the Government Code.