



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2013

Ms. Theresa Cullen
Deputy City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2013-05269

Dear Ms. Cullen:

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# 483626.

The City of El Paso (the "city") received two requests from the same requestor for information pertaining to a specified request for proposals. You state you have released some information to the requestor. Although we understand you take no position with respect to the public availability of the submitted information, you inform us release of this information may implicate the proprietary interests of the Hertz Corporation ("Hertz").¹ Accordingly, you notified Hertz of the request and of its right to submit arguments as to why the submitted information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

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) 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 of the date of this letter, Hertz has not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude Hertz has a protected proprietary interest in the submitted

¹Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information.

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 any portion of the submitted information based upon the proprietary interests of Hertz. As no exceptions to disclosure are 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.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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 483626

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Usman Arain
Counsel for The Hertz Corporation
Debevoise & Plimpton, L.L.P.
919 Third Avenue
New York, New York 10022
(w/o enclosures)