



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2013

Ms. Kerri L. Butcher  
Chief Counsel  
Capital Metro Transportation Authority  
2910 East 5th Street  
Austin, Texas 78702

OR2013-11588

Dear Ms. Butcher:

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# 492576.

The Capital Metropolitan Transportation Authority (the "authority") received a request for a specified contact and the proposals for the firms that were short-listed in reference to that contract. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state the release of the submitted information may implicate the proprietary interests of certain third parties. Accordingly, you notified Crosswind Media & Public Relations, Public Information Associates, and Rifeline, L.L.C. of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). Thus, we have considered your argument and reviewed the submitted information.

You raise section 552.110 of the Government Code for the submitted information. However, section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. As such, a governmental body may not raise section 552.110 on behalf of a third party. Therefore, if we do not receive comments from a third party explaining why

the information at issue should not be released, we will conclude section 552.110 is not applicable. An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from any of the third parties. Thus, the third parties have failed to demonstrate they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)–(b); 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 authority may not withhold the submitted information on the basis of any proprietary interests any of the third parties may have in the information. Therefore, the submitted information must be released in its entirety.

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](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,

A handwritten signature in black ink, appearing to read "Michelle R. Garza", with a long horizontal flourish extending to the right.

Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

Ref: ID# 492576

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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