



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 17, 2014

Ms. Maria Faconti
Attorney
Public Utility Commission of Texas
P.O. Box 13326
Austin, Texas 78711

OR2014-18680

Dear Ms. Faconti:

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# 540105 (PUC Identification No. 2014-07-11).

The Public Utility Commission of Texas (the "commission") received a request for five categories of information related to specified types of contracts executed by, and proposals submitted to, the commission.¹ You state you released most of the requested information to the requestor. Although you take no position with respect to the public availability of the submitted information, you state the proprietary interests of two third parties might be implicated by this request. Accordingly, you inform us, and provide documentation showing,

¹You inform us the commission sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used). You also inform us the commission sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See id.* § 552.2615. You further inform us the estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code, which the requestor paid on August 4, 2014. *See id.* § 552.263(a).

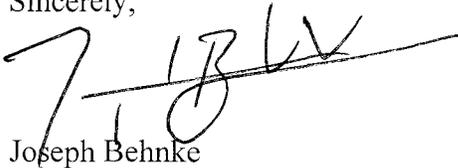
you notified Potomac Economics and CGW Consulting, L.L.C. of the request for information and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor 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). We have reviewed the submitted information.

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 comments from either third party; therefore, neither third party has demonstrated it has 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 commission may not withhold the submitted information on the basis of any proprietary interests the third parties may have in the information. As you raise no exceptions against disclosure, 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, 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 "J. Behnke", with a horizontal line drawn through it.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/eb

Ref: ID# 540105

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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