



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 17, 2016

Ms. Sol M. Cortez
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2016-06148

Dear Ms. Cortez:

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# 602042 (Reference# 16-1044-477).

The City of El Paso (the "city") received a request for information pertaining to solicitations for municipal court collection services. You state the city has released some information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Delgado, Acosta, Spencer, Linebarger, and Perez, L.L.P. ("Delgado").¹ Accordingly, you state, and provide documentation showing, you notified Delgado of the request for information and of its right to submit arguments to this office as to why the information at issue 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 received comments from Delgado. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Delgado argues the submitted information is not responsive to the request for information because it concerns a different solicitation number than the number specified in the instant request. However, we note the request is for information about municipal court collection services and is broader than the specified solicitation number. Moreover, the Act requires the governmental body to make a good-faith effort to relate a request to information the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). Because the city has

¹Although you raise section 552.101 of the Government Code, you have not submitted arguments in support of that exception; therefore, we assume you have withdrawn it. *See* Gov't Code §§ 552.301, .302.

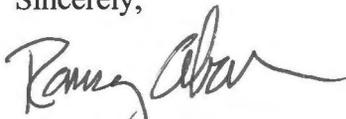
submitted information for our review, we find the city has made a good-faith effort to submit information that is responsive to the request, and we will address the arguments against disclosure of this information.

Delgado claims the 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. *Id.* § 552.110(b); Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm). Delgado contends the submitted information is commercial or financial information, release of which would cause the company substantial competitive harm. Upon review, we find that Delgado has established that the submitted information, which consists of Delgado’s financial statements, constitutes commercial or financial information, the release of which would cause the Delgado substantial competitive harm. Thus, the city must withhold the submitted information under section 552.110(b) of the Government Code.²

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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

²As our ruling is dispositive, we need not address Delgado’s remaining argument against disclosure of this information.

Ref: ID# 602042

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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