



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 5, 2017

Ms. Lauren Downey  
Assistant Attorney General  
Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2017-00292

Dear Ms. Downey:

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# 640477 (PIR No. 16-45357).

The Office of the Attorney General (the "OAG") received a request for information pertaining to request for proposals number 302-16-LBC001. The OAG states it will continue to rely on Open Records Letter No. 2016-16876 (2016) with respect to some of the requested information.<sup>1</sup> Although the OAG takes no position as to whether the submitted information is excepted under the Act, the OAG states release of this information may implicate the proprietary interests of MGT of America, Inc. ("MGT"). Accordingly, the OAG states it notified MGT of the request for information and of its right to submit arguments to this

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<sup>1</sup>In Open Records Letter No. 2016-16876, this office held to the extent certain third parties' client information was not publicly available on their websites, the OAG must withhold it under section 552.110(a) of the Government Code. The ruling also held the OAG must withhold the information we marked under section 552.110(b) of the Government Code and release the remaining information.

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 arguments from MGT. We have considered the submitted arguments and reviewed the submitted information.

MGT argues some of its 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 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, substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5 (1999). Upon review, we find MGT has failed to demonstrate the release of its information at issue would result in substantial harm to its competitive position. *See* ORD 661 (for information to be withheld under commercial or financial information prong of section 552.110, business must show by specific factual evidence that substantial competitive injury would result from release of particular information at issue). Accordingly, none of MGT's information may be withheld under section 552.110(b). As no other exceptions to disclosure have been raised, the OAG 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.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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/sb

Ref: ID# 640477

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

1 Third Party  
(w/o enclosure)