



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 13, 2020

Ms. Cristina C. Doss
Senior Assistant General Counsel & Public Information Officer
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2020-13526

Dear Ms. Doss:

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# 828104 (DART ORR W004826-022420).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to a specified bid. Although you take no position as to whether the submitted information is excepted under the Act, you inform us release of the submitted information may implicate the proprietary interests of Anchin, Block & Anchin LLP; Crowe LLP ; Gnigami, Inc; Grassi CPAs ("Grassi"); Marsh Minick PC; and Weaver and Tidwell LLP. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted 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 received comments from Grassi. We have reviewed the submitted information and the submitted arguments.

Initially, 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 id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the remaining third parties has a protected proprietary interest in the submitted 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, DART may not withhold the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

Section 552.110(c) of the Government Code exempts from disclosure “commercial 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(c). Grassi argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find Grassi has demonstrated the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, DART must withhold the information we marked under section 552.110(c) of the Government Code.¹ DART must release the remaining 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Nick Ybarra
Assistant Attorney General
Open Records Division

NY/mo

Ref: ID# 828104

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ As our ruling is dispositive, we need not consider Grassi’s remaining arguments against disclosure.