



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 9, 2022

Ms. LeAnn M. Quinn, TRMC  
City Secretary  
City of Cedar Park  
450 Cypress Creek Road, Building One  
Cedar Park, Texas 78613

OR2022-03688

Dear Ms. Quinn:

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# 929684 (Ref. No. CS22-43).

The City of Cedar Park (the "city") received a request for monthly weight recycling reports during a specified time period. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of Central Texas Refuse, LLC ("CTR"). Accordingly, you state, and provide documentation showing, you notified CTR of the request for information and of its 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 CTR. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note CTR objects to disclosure of information the city has not submitted to this office for review. This ruling does not address information that was not submitted by the city and is limited to the information the city has submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

Section 552.104(a) of the Government Code excepts from disclosure information that a governmental body demonstrates, if released, would "harm its interests by providing an

advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.” *Id.* § 552.104(a). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Boeing Co. v. Paxton*, 466 S.W.3d 831, 841 (Tex. 2015). After review of the information at issue and consideration of the arguments, we find the city has failed to demonstrate the applicability of section 552.104 to the information at issue. Thus, we conclude the city may not withhold the information at issue under section 552.104(a).

Section 552.110(b) of the Government Code states “information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” *See* Gov’t Code § 552.110(b). Section 552.110(a) defines a trade secret as all forms and types of information if:

- (1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and
- (2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

*Id.* § 552.110(a). Section 552.110(c) of the Government Code excepts 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[.]” *Id.* § 552.110(c). CTR argues some of its information consists of trade secrets subject to section 552.110(b) and commercial or financial information subject to section 552.110(c). Upon review, however, we find CTR has failed to provide specific factual evidence demonstrating the information at issue is a trade secret or constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the city may not withhold any of the information at issue under section 552.110(b) or 552.110(c) of the Government Code. The city 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 <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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/mo

Ref: ID# 929684

Enc. Submitted documents

c: Requestor  
(w/o enclosures)