



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 14, 2022

Mr. William E. Conrad  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702

OR2022-28083

Dear Mr. Conrad:

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# 972166 (City Ref. No. LGL 22-079 WQA 77023).

The City of Waco (the "city") received a request for responses to a specified construction project. You state you have 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 a third party. Accordingly, you state, and provide documentation showing, you AJ Capital Partners ("AJCP") 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 AJCP. We have reviewed the submitted information.

Section 552.1101 of the Government Code provides, in relevant part:

- (a) . . . [I]nformation submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to

demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

Gov't Code § 552.1101(a). AJCP asserts disclosure of some of its information would reveal an individual approach to work, internal operations, and give advantage to a competitor. Upon review, we find AJCP has demonstrated the applicability of section 552.1101(a) to some of the information at issue. Accordingly, the city must withhold the information we marked under section 552.1101 of the Government Code.<sup>1</sup>

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). AJCP argues portions of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find AJCP has demonstrated portions of the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Therefore, the city must withhold the information we marked under section 552.110(c).<sup>2</sup>

In summary, the city must withhold the information indicated under section 552.1101 of the Government Code. The city must withhold the information indicated under section 552.110(c) of the Government Code. The remaining information must be released.

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

<sup>2</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this 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,

Cesar Mata  
Attorney  
Open Records Division

CM/jm

Ref: ID# 972166

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Parties  
(w/o enclosures)