



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 17, 2017

Ms. Evana Vleck
Public Affairs Specialist
County of Hidalgo
100 East Cano, First Floor
Edinburg, Texas 78539

OR2017-03699

Dear Ms. Vleck:

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# 646574 (County File No. 2016-450).

The County of Hidalgo (the "county") received a request for information pertaining to a specified project.¹ You assert the information at issue cannot be released because it is subject to copyright law. Additionally, you state release of the requested information may implicate the proprietary interests of L&G Engineering.² Accordingly, you state you notified the third party 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 considered the submitted argument and reviewed the submitted information.

¹We note the county received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²We note the county did not comply with section 552.301(b) of the Government Code in requesting this decision. *See id.* § 552.301(b). Nevertheless, because the interest of a third party can provide a compelling reason to overcome the presumption of openness, we will consider third party interests for the submitted information. *See id.* §§ 552.007, .302, .352.

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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from the third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude the third party 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, the county may not withhold the submitted information on the basis of any proprietary interest the third party may have in the information.

You inform us the requestor has asked the county to provide the requested information in an electronic format. You assert the county cannot produce this information in an electronic format, as doing so would require the county to provide a copyrighted program to the requestor. However, we note you have submitted the requested information to our office for review in electronic format without the copyrighted program. Consequently, we find the county can furnish the information at issue in an electronic format without the copyrighted program. As no other arguments against disclosure of the submitted information have been raised, this information must be released.

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,

A handwritten signature in black ink, appearing to read "Cole Hutchison", with a long horizontal line extending to the right.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/sb

Ref: ID# 646574

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)