



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 3, 2017

Ms. Jessica Escobar
Assistant General Counsel
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR2017-06865

Dear Ms. Escobar:

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# 652917 (TDA PIR-17-365).

The Texas Department of Agriculture (the "department") received a request for the bid tabulation and proposals submitted in response to a specified request for proposals. The department does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the department states, and provides documentation showing, it notified J.A. White & Associates, Inc. ("White") of the department's receipt of the request for information and of White's right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 White objecting to the release of some of the information. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the department only submitted a proposal submitted by White. We assume, to the extent any additional responsive information existed when the department received the

request for information, the department has released it. If not, then the department must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

Next, we note the department represents, and White informs us, the submitted proposal resulted in a contracts. In response to this office's request for additional information under section 552.303 of the Government Code, the department informs us the contract at issue was for the purchase of services from a private vendor that is subject to the posting requirements in section 2261.253 of the Government Code. Gov't Code § 552.303(c) (attorney general may give written notice to governmental body that additional information is necessary to render decision). Section 2261.253(a)(1) of the Government Code reads as follows:

(a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed[.]

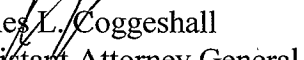
Id. § 2261.253(a)(1). The department represents the contract at issue is (1) valued at more than \$15,000; (2) between the department, a state agency, and a private vendor for the purchase of services; and (3) not expired or completed. *See id.* § 2261.002(2) ("State agency" has meaning assigned by Gov't Code § 2151.002). The department also informs us the submitted proposal "becomes part of a [d]epartment contract and is attached and fully incorporated thereto." Accordingly, the department is required to post the submitted proposal on its internet website. Although White raises section 552.110 of the Government Code, the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, the department may not withhold any portion of the submitted proposal on that ground. Therefore, the department must release the submitted proposal in its entirety.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 652917

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)