



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 18, 2019

Ms. Michele Freeland
Office of the General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2019-10521

Dear Ms. Freeland:

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# 757823 (PIR# 18-4393).

The Department of Public Safety (the "department") received a request for information related to a specified solicitation, including the winning contract and proposal, scoring sheets, and all other proposals received. Although the department takes no position as to whether the requested information is excepted under the Act, it states release of the requested information may implicate the proprietary interests of CohnReznick, LLP ("CohnReznick"); Crowe Horwath, LLP; Ernst & Young ("E&Y"); Grant Thornton, LLP; and Weaver. Accordingly, the department states, and provides documentation showing, it notified these third parties of the request for information and of their rights 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 CohnReznick, E&Y, and Weaver. We have considered the submitted arguments and reviewed the submitted information.


We note, and you acknowledge, the department failed to comply with the requirements of section 552.301 of the Government Code in requesting this decision from our office. *See* Gov't Code § 552.301(b). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342,350 (Tex.

App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-81 (Tex. App.—Austin 1990, no writ); Open Records Decision No. 630 (1994). Third party interests can provide a compelling reason to overcome the presumption of openness. See Gov't Code §§ 552.007, .302, .352. 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 disclosure. See *id.* § 552.305(d)(2)(B). Although CohnReznick, E&Y, and Weaver provided arguments against disclosure of their requested information, the department has not submitted a copy of their information for our review. Additionally, the remaining third parties did not submit arguments to this office. Thus, we have no basis for finding any of the requested or submitted information excepted from disclosure. Therefore, we have no choice but to order the department to release the requested information in accordance with section 552.302 of the Government Code.

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,



Deborah Southerland
Attorney
Open Records Division

DS/gw

Ref: ID# 757823

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 5 Third Parties
(w/o enclosures)