



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 9, 2020

Mr. Joseph G. Hays
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2020-22733

Dear Mr. Hays:

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# 844032 (GC No. 26786).

The City of Houston (the "city") received a request for the awarded bids and notifications for a specified bid number.¹ 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 The Fibar Group, LLC ("Fibar") and The Letco Group, LLC ("Letco"). Accordingly, you state, and provide documentation showing, you notified Fibar and Letco of the request for information and of their 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 received arguments from Fibar. We have considered the submitted arguments and reviewed the submitted information.

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) 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,

¹ We note, and you acknowledge, the city did not comply with the requirements of section 552.301(b) of the Government Code in providing some of the information at issue. *See* Gov't Code § 552.301(b). Nonetheless, we note the interests of a third-party can provide compelling reasons to overcome the presumption of openness. Accordingly, we will consider third party interests for the submitted information. *See id.* §§ 552.007, .302, .352.

we have not received comments from Letco explaining why the submitted information should not be released. Therefore, we have no basis to conclude Letco has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the city may not withhold any portion of the submitted information related to Letco on the basis of any proprietary interest it may have in the information.

Next, we note Fibar seeks to withhold information not submitted to this office by the city. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the city, this ruling does not address this information and is limited to the information submitted as responsive by the city.² As the city makes no arguments, 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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/mo

Ref: ID# 844032

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As we are able to make this determination, we do not address Fibar's arguments.