



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 15, 2020

Ms. Rebekah Wendt  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2020-25907

Dear Ms. Wendt:

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# 849410 (GC No. 26836).

The City of Houston (the "city") received a request for bid tabulations in solicitations numbers S21-24197, S021-24044 and 103241. 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 Blackhouse and Associates Supply Co; Environmental Sorbents; Industry Nations, LLC; LKQKen Harrelson; Lone Star Equipment Services; The Pathlight Company; and Universal Refinement Services, Inc.<sup>1</sup> Accordingly, you state, and provide documentation showing, you notified these third parties 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 reviewed the submitted information.

Initially, we note the city has only submitted information related to solicitation number 103241. The city has not submitted information responsive to the remaining solicitations. We assume, to the extent any information responsive to the remaining solicitations existed on the date the city received the request, the city has released it. If the city has not released

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<sup>1</sup> We note, and you acknowledge, the city failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(e). Nonetheless, third party interests can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302; Open Records Decision No. 150 at 2 (1977). Thus, we will consider whether the submitted information is excepted from disclosure under the Act, notwithstanding the city's violation of section 552.301 in requesting this decision.

any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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

Kelly McWethy  
Assistant Attorney General  
Open Records Division

KM/rm

Ref: ID# 849410

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

6 Third Party  
(w/o enclosures)