



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 25, 2020

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

OR2020-29479

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# 855836 (GC No. 26937).

The City of Houston (the "city") received a request for information submitted by a named third party in response to a specified request for proposals.¹ Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of J.R. Jones Roofing ("J.R. Jones"). Accordingly, you state, and provide documentation showing, the city notified J.R. Jones of the request for information and of the right 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 reviewed the submitted information.

¹ You state the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). In addition, you acknowledge the city did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because the interests of third parties can provide a compelling reason to overcome the presumption of openness, we will consider whether any of the submitted information may be withheld under the Act. *See id.* §§ 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 public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from J.R. Jones explaining why the submitted information should not be released. Therefore, we have no basis to conclude J.R. Jones 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 J.R. Jones may have in the information. As no exceptions to disclosure have been raised, 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,

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/rm

Ref: ID# 855836

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)