



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 24, 2022

Ms. Anastasia Broadfoot
Assistant General Counsel
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711-3127

OR2022-08554

Dear Ms. Broadfoot:

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# 937166 (Ref. No. R005299-122821).

The Texas Alcoholic Beverage Commission (the "commission") received a request for certain proposals and evaluative materials pertaining to a specified request for qualifications. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of Baker Tilly US, LLP; Booth Management Consulting, LLC; and McConnell Jones.¹ Accordingly, you state, and provide documentation demonstrating, the commission notified these interested third parties of the request for information and of their 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.

Initially, we note the commission has not submitted evaluative documents pertaining to the request for qualifications specified in the present request. To the extent any additional information responsive to the request existed on the date the commission received the present request, we assume the commission has already released it. If the commission has

¹ Although you raise sections 552.101 through 552.104, 552.107, 552.108, 552.110, and 552.111 of the Government Code, Texas Rule of Evidence 503, and Texas Rule of Civil Procedure 192.5, you make no arguments to support these arguments. Therefore, we assume you have withdrawn your claim that these exceptions and privileges apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .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 of the third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude any of the third parties have a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the commission may not withhold any portion of the submitted information on the basis of any proprietary interest the third parties may have in it. The commission 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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jxd

Ref: ID# 937166

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 3 Third Parties
(w/o enclosures)