



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2022

Mr. Rahat Huq  
Senior Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2022-24349

Dear Mr. Huq:

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# 965078 (Ref. No. W068524).

The City of Houston (the "city") received a request for the bid tabulation pertaining to a specified bid solicitation. 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 the following third parties: All Safe Industries; Decoulant, Inc.; Felpip Services, LLC; Global Trading, Inc.; Dikip Kumar Soni d/b/a Globe Office Products; Marquise Kay & Associates ("MKA"); Mavich; Patricia Tech Supply and Service; Pivotal Industries; Planet Cellular; RS Hughes; Safety Counts; Safety Shoe Distributors, LLP; and Security Safety & Supply. Accordingly, you state, and provide documentation demonstrating, the city 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 received comments from MKA.<sup>1</sup> We have considered the submitted arguments and reviewed the submitted information

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<sup>1</sup> Although MKA also raises section 552.101 of the Government Code in conjunction with sections 552.102 and 552.1101 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Therefore, we do not address MKA's argument under section 552.101 of the Government Code. Additionally, because MKA makes no arguments to support its argument under section 552.102 of the Government Code, we assume MKA has withdrawn its claim that this exception applies to its information at issue. *See* Gov't Code

Initially, 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 any of the remaining third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude any of the remaining 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 city may not withhold any portion of the submitted information on the basis of any proprietary interest the remaining third parties may have in it.

MKA asserts section 552.1101(a) of the Government Code for its information at issue. Section 552.1101(a) provides:

Except as provided by Section 552.0222, information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

*Id.* § 552.1101(a). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.1101(a) does not apply. *See id.* § 552.0222(b). Upon

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§§ 552.301, .302. Moreover, although MKA also raises section 552.305 of the Government Code, we note this section is not an exception to disclosure. Rather, section 552.305 provides the procedural requirements for notifying third parties that their interests may be affected by a request for information. *See id.* § 552.305.

review, we find some of the information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.1101(a). *See id.* Additionally, we find MKA has failed to provide specific factual evidence demonstrating any portion of the rest of the information at issue is subject to section 552.1101(a). Therefore, the city may not withhold any portion of the submitted information under section 552.1101(a) of the Government Code. 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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/jm

Ref: ID# 965078

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: 14 Third Parties  
(w/o enclosures)