



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2022

Mr. Albert Escobedo Tovar
Attorney
VIA Metropolitan Transit
123 North Medina Street
San Antonio, Texas 78207

OR2022-24839

Dear Mr. Tovar:

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# 966546.

VIA Metropolitan Transit (the "VIA") received a request for information pertaining to a specified bid proposal. You state you have released some information. Although VIA takes no position regarding whether the submitted information is excepted from disclosure under the Act, VIA informs us its release may implicate the proprietary interests of ASHCO Contracting, Inc. ("ASHCO"). Accordingly, VIA states, and provides documentation showing, it notified ASHCO of the request for information and of its right to submit arguments to this office. *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.

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, we have not received comments from ASHCO explaining why the information at issue should not be released. Thus, we have no basis to conclude ASHCO 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). Therefore, VIA may not withhold the submitted information on the basis of any proprietary interest ASHCO may have in the information. VIA 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,

D. Michelle Case
Assistant Attorney General
Open Records Division

DMH/mo

Ref: ID# 966546

Enc. Submitted documents

c: Requestor
(w/o enclosures)