



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 6, 2022

Mr. Eric L. Nguyen  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2022-26977

Dear Mr. Nguyen:

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# 969866 (ORR# R071049).

The City of Houston (the "city") received a request for information pertaining to RFP# T25785. The city claims the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the submitted information is not responsive to the request for information because it does not pertain to RFP# T25785. This ruling does not address the public availability of any information that is not responsive to the request, and the city is not required to release this information in response to this request.

Next, we note the requested information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2021-08745 (2021). We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, we conclude the city must continue to rely on Open Records Letter No. 2021-08745 as a previous determination and withhold the information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where

requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not subject to Open Records Letter No. 2021-08745, we will address the city's arguments against disclosure.

Finally, we must address the procedural obligations of the city under section 552.301 of the Government Code regarding the requested information. Section 552.301 prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e)(1)(D), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(D). The city received the request for information on June 13, 2022. However, as of the date of this letter, the city has not submitted a copy or representative sample of the requested information. Therefore, the city failed to comply with the procedural requirements mandated by section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although the city raises an exception to disclosure, because it has not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, to the extent the information is not subject to Open Records Letter No. 2021-08745 we have no choice but to order the requested information be released pursuant to section 552.302.

In summary, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, the city must continue to rely on Open Records Letter No. 2021-08745 as a previous determination and withhold the information in accordance with that ruling. To the extent the submitted information is not subject to Open Records Letter No. 2021-08745, the city must release it.

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/jm

Ref: ID# 969866

Enc. Submitted documents

c: Requestor  
(w/o enclosures)