



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 30, 2022

Mr. Jeffrey David Palmer
Deputy General Counsel
University of Houston System
Ezekiel W. Cullen Building
4302 University Drive, Room 311
Houston, Texas 77204-2028

OR2022-30230

Dear Mr. Palmer:

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# 976059 (Ref. No. IR07811).

The University of Houston (the "university") received a request for information pertaining to a specified request for proposals ("RFP"). Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Sierra-Cedar, LLC ("Sierra"). Accordingly, you state, and provide documentation showing, you notified Sierra of the request and 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.

Initially, we note the university has only submitted a proposal submitted in response to the specified RFP. To the extent information responsive to the remainder of the request existed on the date the university received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to

that party should not be released. *See id.* § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Sierra. Thus, we have no basis to conclude Sierra 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 university may not withhold any of the submitted information on the basis of any proprietary interest Sierra may have in the information.

We note some of the submitted information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. The university must release the submitted information; however, any information subject to copyright may only be released in accordance with copyright law.

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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/jm

Ref: ID# 976059

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)