



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 6, 2022

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

OR2022-37848

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# 986234 (Houston GovQA No. R082151).

The City of Houston (the "city") received a request for bid results, scoring sheet summaries, and line items for five specified projects. You state responsive information for four of the specified projects does not yet exist.¹ You state, although the city takes no position with respect to whether the submitted information is excepted from disclosure, its release may implicate the interests of third parties. Accordingly, you state, and provide documentation demonstrating, the city notified Boyer, Inc.; LEM Construction Company, Inc.; and Resicom, Inc. of the request for information and of their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

¹ The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

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 requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from the third parties explaining why their information should not be released to the requestor. Thus, we have no basis to conclude the release of the information would implicate the interests of the third parties, and none of the information may be withheld on that basis. *See, e.g., id.* § 552.110 (requiring provision of specific factual evidence demonstrating applicability of exception). As no exceptions to disclosure have been raised, 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,

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/mo

Ref: ID# 986234

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)