



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 2, 2009

Mr. James Mu  
Assistant General Counsel  
TDCJ - Office of the General Counsel  
P.O. Box 4004  
Huntsville, Texas 77342-4004

OR2009-13908

Dear Mr. Mu:

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# 357130.

The Texas Department of Criminal Justice (the "department") received a request for information relating to two specified solicitations for water softeners. You state that the submitted information may be excepted from disclosure under section 552.110 of the Government Code, but you take no position as to whether the information is excepted under this section. You provide documentation showing that the department notified C & K Water Specialists; Siemens Water Technologies; Bob J. Johnson & Associates; Water Filtration Technologies; John R. Neal & Associates, Inc.; River City Water Treatment Co.; and AquaTex Water Conditioning 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

reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

An interested third party is allowed ten business days after the date of its receipt of a 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 that party should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, none of the notified third parties have submitted comments to this office explaining why any portion of the submitted information relating to them should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate the proprietary interests of these companies. Accordingly, none of the information pertaining to these companies may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret). As no exceptions to disclosure have been raised, the submitted information must be released to the requestor.

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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/eeg

Ref: ID# 357130

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Mr. Travis Howpe  
John R. Neal & Associates, Inc.  
10610 Boomer Circle  
Dallas, Texas 75238  
(w/o enclosures)

Mr. Clarence Melancon  
Water Filtration Technologies  
P.O. Box 551  
Spring, Texas 77383  
(w/o enclosures)

Mr. Christopher Leone  
River City Treatment Co.  
130 Avenue Del Rey  
San Antonio, Texas 78216  
(w/o enclosures)

Mr. Bill Maloney  
Siemens Water Technologies  
10875 Kempwood, Suite 1  
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Ms. Cindy Pullins  
C & K Water Specialists  
1305 Highridge Farms Road  
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(w/o enclosures)

Mr. David Bosshart  
Bob J. Johnson & Associates, Inc.  
16420 West Hardy Road, Suite 100  
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Mr. Jack Kohutek  
AquaTex water Conditioning  
2601 Bypass 35 North  
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