



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 12, 2010

Mr. Tom Tracy  
Assistant General Counsel  
University of Houston System  
311 East Cullen Building  
Houston, Texas 77204-2028

OR2010-10251

Dear Mr. Tracy:

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# 386169.

The University of Houston (the "university") received three requests for information pertaining to a Request for Proposal entitled "Chemical Waste Disposal Services." The first and second requestors seek the bid tabulation and a copy of the unit pricing submitted by Clean Harbors Environmental Services ("Clean Harbors"). The third requestor also seeks the bid tabulation, and additionally, pricing information submitted by all vendors.<sup>1</sup> Although the university takes no position with respect to the public availability of the submitted information, you indicate the release of this information may implicate the proprietary interests of Clean Harbors; Eagle SWS; Envirosolve, Inc. ("Envirosolve"); Green Planet, Inc. ("Green Planet"); Milstead Environmental; Set Environmental; USA Environment; PSC Environmental; Veolia Environmental; and Pollution Control Industries, Inc. Accordingly, you notified these third parties of the university's receipt of the request for information and

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<sup>1</sup>The university sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

of their right to submit arguments to this office as to why their information should not be released to the requestor. *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 considered comments submitted by Envirosolve and Green Planet and reviewed the submitted information.

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) 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 received comments only from Envirosolve and Green Planet explaining why their information should not be released. Therefore, we have no basis to conclude the remaining notified companies have protected proprietary interests in their information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, 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), 542 at 3. Accordingly, the university may not withhold these companies' information on the basis of any proprietary interest they may have in their information. As no exceptions have been raised, these companies' pricing information must be released to the requestor.

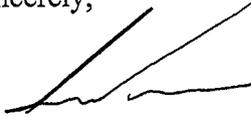
Next, we note Envirosolve and Green Planet argue against the release of information that was not submitted by the university. However, our ruling is limited to what the university submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). We need not address Green Planet's arguments because its information is responsive to its own request only and is not responsive to the other two requests. Because the university submitted Envirosolve's pricing information, we address Envirosolve's argument against its release.

Envirosolve contends its pricing information is excepted under section 552.110(b) of the Government Code, which protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" *Id.* § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6. Upon review of Envirosolve's arguments and its information at issue, we find Envirosolve has established its pricing information, which we have marked, constitutes commercial or financial information, the release of which would cause it substantial competitive harm. Therefore, the university must withhold the marked pricing information under section 552.110(b). The university must release the remaining 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 [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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 386169

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)

c: Mr. Brian Metcalf  
Eagle SWS  
9701 East I-20  
Eastland, Texas 76448  
(w/o enclosures)

Mr. Greg Whitaker  
Clean Harbors Environmental Services  
2027 Independence Parkway South  
LaPorte, Texas 77571  
(w/o enclosures)

Mr. Adam C. Panzer  
Mr. Tim Taylor  
Envirosolve, Inc.  
2120 Southwest Blvd.  
Tulsa, Oklahoma 74107  
(w/o enclosures)

Mr. Chris Armintor  
Veolia Environmental  
1800 S. Highway 146  
Baytown, Texas 77520  
(w/o enclosures)

Ms. Sandy Tennery  
Milstead Environmental  
29707 W. Hawthorne  
Spring, Texas 77386  
(w/o enclosures)

Ms. Pam Nowlin  
Set Environmental  
14010 Interdrive West  
Houston, Texas 77032  
(w/o enclosures)

Mr. Russell Herrscher  
USA Environment  
10234 Lucore St.  
Houston, Texas 77017  
(w/o enclosures)