



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 4, 2013

Mr. Stephen A. Cumbie  
Assistant City Attorney  
Office of the City Attorney  
The City of Fort Worth  
1000 Throckmorton Street, Third Floor  
Fort Worth, Texas 76102

OR2013-15368

Dear Mr. Cumbie:

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# 498234 (FW PIR Nos. W026549 and W027054).

The City of Fort Worth (the "city") received a request for the bid records and results, bid award amount, selected contractor, list of proposers, bid details, and evaluation/selection sheets regarding request for qualifications number 13-0086. The city received a second request from a different requestor for all proposals, evaluations sheets with notes, and the award letter for request for qualifications number 13-0086. You inform us you have released some of the requested information to the requestors. Although you take no position on the public availability of the submitted information, you state the submitted information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, you notified ASK Development Solutions; BBC Research & Consulting; Ernest Swiger Consulting, Inc.; Housing Opportunities Made Equal, Inc.; Kimlyn Consulting, L.L.C.; Northeast & Bucks Company t/a Mullin & Lonergan Associates; Western Economic Services, L.L.C.; and WFN Consulting, L.L.C. of the request and of each company's right to submit comments to this office as to why the submitted information should not be released to the requestors. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have 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

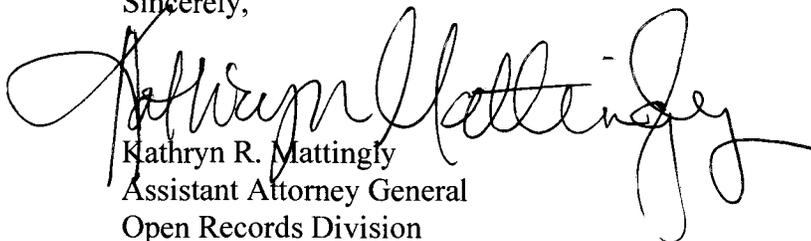
information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the third parties on why their submitted information should not be released. Therefore, we have no basis to conclude any of the third parties have protected proprietary interests in the submitted 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 city may not withhold any portion of the submitted information on the basis of any proprietary interest any of the third parties may have in it.

We note some of the information at issue may 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. Therefore, as no exceptions to disclosure have been raised, the submitted information must be released; however, any information subject to copyright may be released only 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 [http://www.texasattorneygeneral.gov/open\\_orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open_orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 498234

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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Managing Director  
BBC Research & Consulting  
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Ms. Kimberly L. Carter  
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Mr. Robert M. Guadin  
Western Economic Services, LLC  
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(w/o enclosures)

Mr. Brian Koziol  
Director of Research  
Housing Opportunities Made Equal, Inc.  
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Mr. William P. Wasielewski  
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