



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2014

Ms. Sameera Mahendru
Senior Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2014-17312

Dear Ms. Mahendru:

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# 537561 (Houston G.C. No. 21599).

The City of Houston (the "city") received a request for the bid tab for a specified bid. Although you take no position as to whether the submitted information is excepted under the Act, you state the requested information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, you notified Metro Fire Apparatus Specialists, Inc. ("Metro"); Ferrara Fire Apparatus, Inc. ("Ferrara"); and Municipal Emergency Services ("Municipal") of the request for information and of their right to submit arguments to this office as to why the requested 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 reviewed the submitted information.¹

We note 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* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from Metro, Ferrara, or Municipal. Thus, these third parties have not demonstrated they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6

¹As you acknowledge, the city did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, third party interests can overcome the presumption of openness. *See id.* §§ 552.007, .302, .352.

(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 the submitted information on the basis of any proprietary interests the third parties may have in the information. As there are no further arguments against disclosure, 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 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 537561

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Andy King
Operations Manager
Metro Fire Apparatus Specialists, Inc.
1745 Parana
Houston, Texas 77080
(w/o enclosures)

Mr. Chris Von Wiesenthal
S.E. Sales Representative
Ferrara Fire Apparatus, Inc.
24635 I-45 North
Spring, Texas 77380
(w/o enclosures)

Mr. Lonnie Stephens
Texas Customer Services
Municipal Emergency Services
16511 Hedgcroft, Suite 200
Houston, Texas 77060
(w/o enclosures)