



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 8, 2015

Mr. Kaleb Allison
Assistant General Counsel
Office of the General Counsel
Stephen F. Austin State University
P.O. Box 13065
Nacogdoches, Texas 75962-3065

OR2015-11139

Dear Mr. Allison:

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# 566305.

Stephen F. Austin State University (the "university") received a request for copies of proposals submitted in response to a specified request for proposals. Although you take no position with respect to the public availability of the requested information, you state the proprietary interests of third parties might be implicated.¹ Accordingly, you inform us, and provide documentation showing, you notified J.E. Kingham Construction Company; TCMC Commercial, L.P.; and Timberline Constructors of the request and of their rights to submit comments 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) (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.

¹We note the university failed to respond properly to the requestor's first request for the information at issue. Gov't Code § 552.301(b), (e). Nevertheless, as third party interests can provide a compelling reason to withhold information, we will consider the public availability of the submitted information. *Id.* §§ 552.007, .302, .352.

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 requested information relating to that party 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 any third parties explaining why their information should not be released to the requestor. 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) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret). Accordingly, the university may not withhold the submitted information on the basis of the proprietary interests the third parties may have in the information. As no exceptions to disclosure are raised, the university 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 566305

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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