



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 8, 2015

Ms. Jacqueline E. Hojem  
Public Information Coordinator  
Metropolitan Transit Authority  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2015-13825

Dear Ms. Hojem:

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# 570814 (MTA No. 2015-0219).

The Metropolitan Transit Authority (the "METRO") received a request for certain documents and the proposals received related to a specified RFP. The METRO states it has released some information to the requestor. Although the METRO takes no position as to whether the submitted information is excepted under the Act, the METRO states release of this information may implicate the proprietary interests of J.P. Morgan Chase Bank, N.A.; Wells Fargo Bank, N.A.; and Bank of America, N.A. Accordingly, the METRO states it notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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.

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) of the Government Code 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 explaining why the submitted information

should not be released. Therefore, we have no basis to conclude any of these third parties has a protected proprietary interest 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, 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), 542 at 3. Accordingly, the METRO may not withhold the submitted information on the basis of any proprietary interest any of the third parties may have in the information.

We note some of the submitted information 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. As no exceptions against disclosure have been raised, the METRO must release the submitted information; however, any information protected by copyright may only be released 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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 570814

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Tyrus Brailey  
J.P. Morgan Chase Bank, N.A.  
712 Main Street, 9<sup>th</sup> Floor  
Houston, Texas 77002  
(w/o enclosures)

Mr. Jeff Powell  
Wells Fargo Bank, N.A.  
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Mr. Daniel Schroeder  
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