

January 25, 1999



OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF TEXAS

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Ms. Tracy Calabrese  
Senior Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR99-0230

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121231.

The City of Houston ( the "city") received a request for the "affirmative action file related to C.J. Construction." You have submitted the responsive information, contending that it is excepted from disclosure by section 552.127 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.127 of the Government Code provides that:

(a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from [required public disclosure], except as provided by this section.

(b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:

(1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:

(A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or

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(B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or

(2) with the express written permission of the applicant or the applicant's agent.

(c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

You state that the responsive documents were submitted in connection with C.J. Construction's application for certification as a historically disadvantaged business under the city's Minority Business Enterprises and Women Business Enterprises programs. Our review of the subject information reveals several items that were generated by the city and therefore were not submitted by this vendor. A review of the submitted information does not suggest the applicability of any enumerated release provision. We have marked the information to indicate those items which may be withheld under section 552.127 and those that must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael J. Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 121231

Enclosures: Submitted documents

cc: Mr. Wayne Dolcefino  
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(w/o enclosures)