



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 17, 2010

Ms. LeAnn M. Quinn  
City Secretary  
City of Cedar Park  
600 North Bell Boulevard  
Cedar Park, Texas 78613

OR2010-02361

Dear Ms. Quinn:

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# 370986.

The City of Cedar Park (the "city") received a request for copies of the proposal responses from two specified companies for the city's Request For Proposal #09-25-209 for Residential Services, Commercial Services, City Services, and Construction and Demolition Waste Services. Although you raise no exceptions to disclosure of the requested information, you state release of this information may implicate the proprietary interests of third parties. You inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the city has notified the interested third parties of the request and of their right to submit arguments to this office explaining why their information should not be released.<sup>1</sup> *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *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 in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no

---

<sup>1</sup>The interested third parties are Central Texas Refuse, Inc. and Texas Disposal Systems, Inc.

correspondence from any of the third parties. Thus, because these third parties have not demonstrated that any of the requested information is proprietary for the purposes of the Act, the city may not withhold any of the information on that basis. *See id.* § 552.110(a)-(b); 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.

We note a portion of the submitted information appears to 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. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* 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. *See* Open Records Decision No. 550 (1990). As the city does not claim an exception to disclosure, the submitted information must be released, but any information subject to copyright may only be released in accordance with federal 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 370986

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Ralph R. Wueller  
Texas Disposal System  
P.O. Box 17126  
Austin, Texas 78760-7126  
(w/o enclosures)

Mr. Ralph Rocco  
Central Texas Refuse, Inc.  
P.O. Box 18685  
Austin, Texas 78760  
(w/o enclosures)