



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 9, 2010

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

OR2010-10157

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# 386042 (MTA No. 2010-0468).

The Metropolitan Transit Authority of Harris County ("METRO") received a request for the proposal submitted by Veolia Transportation ("Veolia") in response to RFP 1000003, as well as the contract awarded to Veolia. Although you take no position with respect to the public availability of the submitted information, you state that the submitted documents may contain proprietary information of a third party subject to exception under the Act. Accordingly, you state that METRO notified Veolia of the request for information and of Veolia's right to submit arguments to this office as to why the submitted information 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.

Initially, we note METRO did not submit information responsive to the portion of the request seeking the contract awarded to Veolia. To the extent any information responsive to this portion of the request existed on the date METRO received the request, we assume METRO has released it. If METRO has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note that an interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code 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, Veolia has not submitted comments to this office explaining why any portion of the submitted information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate the proprietary interests of Veolia. Accordingly, none of the information at issue may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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). As there are no arguments against disclosure, the submitted information must be released to the requestor.

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, 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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 386042

Enc. Submitted documents

c: Requestor
(w/o enclosures)