



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 12, 2010

Mr. Ty M. Sparks
Hemphill County Attorney
P.O. Box 716
400 Main, Room 103
Canadian, Texas 79014

OR2010-10220

Dear Mr. Sparks:

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# 386167.

The Hemphill County Attorney (the "county attorney") received a request for eight categories of information relating to two specified projects. Although you take no position with respect to the public availability of the submitted information, you indicate you have notified certain third parties of the request and of each company's right to submit arguments to this office as to why the submitted information should not be released.¹ *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 the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that an interested party may submit comments stating why information should or should not be released).

Initially, we note it does not appear you have submitted the requested correspondence relating to negotiations and bids or meeting minutes. To the extent this information existed on the date the county attorney received this request, we assume you have released it. If you

¹The third parties are: Kelly Wood Co.; Panhandle Steel Builders; W.R. Construction; A & S General Contractors, and; Jim Seybert Homes.

have not released any such information, you must do so at this time. *See id.* §§ 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 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, none of the third parties has submitted comments to this office explaining why any portion of the submitted information relating to them 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 third parties' interests, and none of the information 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 no exception to disclosure of the requested information has been raised, the requested information must be released.

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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/tp

Ref: ID# 386167

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Kelly Wood Co.
c/o Ty M. Sparks
Hemphill County Attorney
P.O. Box 716
400 Main, Room 103
Canadian, Texas 79014
(w/o enclosures)

WR Construction
c/o Ty M. Sparks
Hemphill County Attorney
P.O. Box 716
400 Main, Room 103
Canadian, Texas 79014
(w/o enclosures)

Jim Seybert Homes
c/o Ty M. Sparks
Hemphill County Attorney
P.O. Box 716
400 Main, Room 103
Canadian, Texas 79014
(w/o enclosures)

Panhandle Steel Builders
c/o Ty M. Sparks
Hemphill County Attorney
P.O. Box 716
400 Main, Room 103
Canadian, Texas 79014
(w/o enclosures)

A&S General Contractors
c/o Ty M. Sparks
Hemphill County Attorney
P.O. Box 716
400 Main, Room 103
Canadian, Texas 79014
(w/o enclosures)