



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 1, 2010

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2010-14964

Dear Ms. De La Garza:

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# 395594 (PIR #17461).

The City of Houston (the "city") received a request for all proposals submitted in response to bid number S300-L23479 for multi-family residential compliance review services. Although the city takes no position with respect to the public availability of the submitted information, you indicate the release of this information may implicate the proprietary interests of Direct Line To Compliance, L.L.C.; Coytrean Properties, Inc.; and Southwest Housing Compliance Corporation ("SHCC"). Accordingly, you notified these third parties of the city's receipt of the request for information and of their right to submit arguments to this office as to why their information should not be released to the requestor. *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 considered comments submitted by SHCC and 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) 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 received comments only from SHCC explaining why its information should not be released. Therefore, we have no basis to conclude the remaining notified companies have protected proprietary interests in their 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, 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. Accordingly, the city may not withhold these companies' information on the basis of any proprietary interest they may have in their information. As no exceptions have been raised, these companies' proposals must be released to the requestor.

SHCC contends portions of its information are excepted under section 552.110(b) of the Government Code, which protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov’t Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6. Upon review of SHCC’s arguments and its information at issue, we find SHCC has established its detailed pricing information for each element of the total price, which we have marked, constitutes commercial or financial information, the release of which would cause it substantial competitive harm. However, SHCC seeks to withhold the total amount of its bid, which it states was disclosed to the public when bids were publicly opened. Because SHCC acknowledges this information has been publicly released, we find SHCC has failed to demonstrate how its present disclosure will cause SHCC substantial competitive harm. Furthermore, SHCC seeks to withhold portions of the city’s bid form created by the city which do not contain SHCC’s information. SHCC has failed to demonstrate how this information, which is provided to each vendor, constitutes commercial or financial information the release of which will cause SHCC substantial competitive harm. Therefore, the city must only withhold the marked pricing information under section 552.110(b). The city must release the remaining submitted information.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 395594

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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