



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2010

Ms. Jacqueline E. Hojem  
Public Information Officer  
Metropolitan Transit Authority of Harris County  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2010-16844

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# 401778 (MTA 2010-0660).

The Metropolitan Transit Authority of Harris County ("METRO") received a request for the bid proposal Pumpelly Oil Company, LLC ("Pumpelly") submitted in response to IB1000065 for 87 octane reformulated gasoline. Metro takes no position on whether the submitted information is excepted from disclosure, but states that release of this information may implicate the proprietary interests of Pumpelly. Accordingly, you inform us, and provide documentation showing, that you notified Pumpelly of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

We note that 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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any arguments from Pumpelly. We, thus, have no basis for concluding that any portion of Pumpelly's information constitutes Pumpelly's proprietary 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, METRO may not withhold any of the submitted information based on the proprietary interests of Pumpelly. As no arguments against its disclosure have been made, the submitted 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](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,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/eb

Ref: ID# 401778

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Crayton Nelson  
Houston District Manager  
Pumpelly Oil Company, LLC  
16450 Lee Road  
Humble, Texas 77396  
(w/o enclosures)