



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2010

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

OR2010-18317

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# 401993 (MTA No. 2010-0666).

The Metropolitan Transit Authority ("Metro") received a request for a specified bid relating to Solicitation Number IB1000070 and the bid tabulation and a specified bid relating to Solicitation Number IB1000064. You state you have released the bid tabulation and specified bid relating to Solicitation Number IB1000064 to the requestor. Although you take no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of ADA Resources, Inc. ("ADA"). You inform us, and provide documentation showing, pursuant to section 552.305 of the Government Code, Metro has notified ADA of the request and of its right to submit arguments to this office explaining why its information should not be released. *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 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.

We note 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 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, ADA has not submitted any comments to this office explaining how release of the submitted information would affect

its proprietary interests. Accordingly, none of the information at issue may be withheld on the basis of the proprietary interests of ADA. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret). As Metro makes no arguments regarding this information, it 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](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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 401993

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Jim Smith  
President  
ADA Resources, Inc.  
6603 Kirbyville Drive  
Houston, Texas 77033  
(w/o enclosures)