



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2012

Ms. Michelle T. Rangel
Assistant County Attorney
County of Fort Bend
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2012-13143

Dear Ms. Rangel:

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# 462423.

The Fort Bend County Purchasing Department (the "county") received a request for a specified contract and any evaluation information used in review for the award of the contract. We understand that the county takes no position with respect to the requested information, however, you state it may implicate the interests of third parties. Accordingly, you state, and provide documentation demonstrating, the county notified the third parties of the request for information and of their right to submit arguments stating why their information should not be released.¹ See Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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.

¹The third parties notified pursuant to section 552.305 are: Atlas Oil Company; Four Sisters Petroleum; Gold Star Petroleum, Inc.; Mansfield Oil Company; Petroleum Traders; Southern Counties Oil; Sussner Petroleum Company, L.L.C.; and TAC Energy.

Initially, we note you have not submitted the requested contract. Thus, to the extent such information existed and was maintained by the county on the date the county received the request for information, we presume the county has released it. If not, the county must do so at this time. *See Gov't Code §§ 552.301, .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).*

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 it should be withheld from disclosure. *See Gov't Code § 552.305(d)(2)(B).* As of the date of this letter, this office has not received comments from any of the third parties explaining why their information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the requested information would implicate the third parties' interests. *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, we conclude that the county may not withhold any of the submitted information on the basis of any interest the third parties may have in the information. As no exceptions to disclosure have been raised, the county must release the 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, 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/ag

Ref: ID# 462423

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Riti Madugula
Four Sisters Petroleum
2900 North Quinlan Park Drive,
Suite B240
Austin, Texas 78732
(w/o enclosures)

Ms. Gail Workman
Susser Petroleum Company
333 East Airtex Drive
Houston, Texas 77073
(w/o enclosures)

Mr. Jeff Thomas
TAC Energy
100 Crescent Court, Suite 1600
Dallas, Texas 75201
(w/o enclosures)

Ms. Linda Stephens
Petroleum Traders
7120 Pointe Inverness Way
Fort Wayne, Indiana 46804
(w/o enclosures)

Mr. David Zarfoss
Mansfield Oil Company
1025 Airport Parkway Southwest
Gainesville, Georgia 30501
(w/o enclosures)

Mr. J.J. Rodriguez
Gold Star Petroleum, Inc.
P.O. Box 11151
Spring, Texas 77391-1151
(w/o enclosures)

Mr. Michael Evans
Atlas Oil Company
24501 Ecorse Road
Taylor, Michigan 48180
(w/o enclosures)