



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 31, 2012

Mr. Eric D. Bentley  
Assistant General Counsel  
Office of the General Counsel  
University of Houston System  
311 E. Cullen Building  
Houston, Texas 77204-2028

OR2012-17397

Dear Mr. Bentley:

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# 469421.

The University of Houston (the "university") received a request for information pertaining to RFQ No. 730-122311-ceb, for the university's shuttle program. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Groome Transportation, Inc. ("Groome"). Accordingly, you state, and provide documentation showing, you notified Groome of the request for information and of the company's right to submit arguments to this office as to why the submitted information should not be released. 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 reviewed the submitted information.

Initially, we note a portion of the submitted information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-13269 (2012). In that ruling, we determined the university may not withhold any of the information at issue in that ruling. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to

the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the university must rely on Open Records Letter No. 2012-13269 as a previous determination and release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the submitted information is not encompassed by Open Records Letter No. 2012-13269, we will address the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Groome. Thus, we have no basis to conclude Groome has a protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); 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 university may not withhold any of the submitted information on the basis of any proprietary interest Groome may have in the information.

We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, to the extent the submitted information is identical to the information at issue in Open Records Letter No. 2012-13269, we conclude the university must rely on that ruling as a previous determination and release the identical information in accordance with that ruling. The submitted information must be released; however, any information that is subject to copyright may be released only in accordance with copyright law.

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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/akg

Ref: ID# 469421

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Paul Benigno  
Groome Transportation, Inc.  
5500 Lewis Road  
Sandston, Virginia 23150  
(w/o enclosures)