



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2014

Ms. Ana Vieira
Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2014-23054

Dear Ms. Vieira:

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# 548324 (OGC# 158600).

The University of Texas System (the "system") received a request for documents that identify the general contractors and electrical contractors that bid to perform work for a specified construction project, to include documents that identify the amount of each bid.¹ Although you take no position on the public availability of the requested information, you state the requested information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, you notified Hensel Phelps Construction Company ("Hensel"); Rosendin Electric, Inc.; Titus Electrical Contracting, LP; Facility Solutions Group; Beck Group; Bergelectric Corporation; Mastec North America, Inc.; and

¹We note the system sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380,387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Hill Electric Company of the request and of their right to submit comments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have received comments from Hensel. We have reviewed the submitted arguments and submitted information.

Initially, you state, and we agree, portions of the submitted information are not responsive to the instant request for information because they do not consist of the requested identities or bid amounts. This ruling does not address the public availability of any information not responsive to the request, and the system need not release it in response to the request.²

Next, 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 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 only received comments from Hensel. Thus, the remaining third parties have not demonstrated they have protected proprietary interests in any of the submitted 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 system may not withhold any of the submitted information on the basis of any proprietary interest the remaining third parties may have in the information. As no exceptions to disclosure have been raised for the responsive information, the responsive 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

²We note Hensel only argues against the disclosure of information that is not responsive to the request. This ruling only addresses the responsive information the system submitted to this office. As we are able to make this determination, we need not address Hensel's arguments against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 548324

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Scott Johnson
Corporate Counsel
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14215 Suncrest Road
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Titus Electrical Contracting, LP
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(w/o enclosures)

Beck Group
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Bergelectric Corporation
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Hill Electric Company
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