



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 1, 2016

Mr. Kipling D. Giles  
Senior Counsel  
City Public Service Board of the City of San Antonio  
P.O. Box 1771  
San Antonio, Texas 78296-1771

OR2016-02348

Dear Mr. Giles:

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# 596250.

The City Public Service Board of the City of San Antonio ("CPS") received a request for the name of the winning bidder and the price of that bid for request for qualifications number 7000133478. Although CPS takes no position as to whether the submitted information is excepted under the Act, it states release of the submitted information may implicate the proprietary interests of a third party. Accordingly, CPS states, and provides documentation showing, it notified the third party of the request for information and of its 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.

We note the requestor seeks only the name of the winning bidder at issue and the price of that bid. Thus, the remaining information is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and CPS is not required to release non-responsive information in response to this request.

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 not received comments from the third party explaining why the responsive information should not be released. Therefore, we have no basis to conclude the third party has a protected proprietary interest in the responsive 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, 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), 542 at 3. Accordingly, CPS may not withhold the responsive information on the basis of any proprietary interest the third party may have in the information. As no exceptions to disclosure have been raised, CPS must release the responsive 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 596250

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)