



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 15, 2016

Ms. Jennifer Watson  
Officer for Public Information  
Houston Housing Authority  
2640 Fountain View Drive, Suite 409  
Houston, Texas 77057

OR2016-13568

Dear Ms. Watson:

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# 614186.

The Houston Housing Authority (the "authority") received a request for certain information submitted by Geotech Engineering and Testing ("Geotech").<sup>1</sup> You state the authority will release some of the requested information to the requestor. Although the authority 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 Geotech.<sup>2</sup> Accordingly, the authority states, and provides documentation showing, it notified Geotech of the request for information and of its right to submit arguments to this office as to why the

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<sup>1</sup>As you have not submitted to this office the written request for information, we take our description of the requested information from your brief.

<sup>2</sup>We note the authority did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because third-party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301, we will consider whether the submitted information must be withheld under the Act based on third-party interests. *See id.* § 552.302; Open Records Decision No. 150 at 2 (1977).

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.

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 Geotech explaining why the submitted information should not be released. Therefore, we have no basis to conclude Geotech has a protected proprietary interest in 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, 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, the authority may not withhold the submitted information on the basis of any proprietary interest Geotech may have in the information. As no exceptions to disclosure have been raised, the authority 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.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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/bw

Ref: ID# 614186

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)