



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2009

Mr. James G. Nolan
Assistant General Counsel
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2009-12909

Dear Mr. Nolan:

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# 355224.

The Texas Comptroller of Public Accounts (the "comptroller") received a request for specified sections of the proposal submitted by PrintMailPro related to request for proposals number 172d.¹ You state that some responsive information has been released to the requestor. Although the comptroller takes no position on the release of the submitted information, you explain that it may contain proprietary information subject to exception under the Act. Accordingly, you have notified PrintMailPro, the interested third party, of this request for information and of its right to submit arguments to this office as to why the requested information should not be released. *See Gov't Code § 552.305(d)*; Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

We note that 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 that party should be withheld from disclosure. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this ruling, we have not received any correspondence from PrintMailPro. Accordingly, we have no basis to conclude that this company has any protected proprietary interests in the submitted information. Thus, the

¹We note that the comptroller sought and received clarification regarding this request. *See Gov't Code § 552.222(b)* (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

comptroller may not withhold any of the submitted information on that basis. *See id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). As you raise no exception to disclosure, the comptroller must release the submitted information to the requestor.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 355224

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)