



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2010

Mr. John Feldt
Assistant District Attorney
Denton County Criminal District Attorney Civil Division
P.O. Box 2850
Denton, Texas 76202

OR2010-04280

Dear Mr. Feldt:

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# 375067.

Denton County (the "county") received a request for a specified contract proposal currently being negotiated between the county and a third party. Although you take no position with respect to the public availability of the submitted information, you state that the submitted documents may contain proprietary information of a third party subject to exception under the Act.¹ Accordingly, you provide documentation showing the county notified Innovative Transportation Solutions, Inc. ("Innovative") 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 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*

¹ Although you initially raised sections 552.101, 552.104, and 552.110 of the Government Code as exceptions to disclosure, you did not submit to this office written comments stating the reasons why these sections would allow the information to be withheld; we therefore assume you no longer assert these exceptions. *See* Gov't Code §§ 552.301, .302.

Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Innovative has not submitted any comments to this office explaining how release of the information at issue would affect its proprietary interests. Accordingly, none of the information at issue may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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). As the county makes no arguments regarding this information, it must be released 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/rl

Ref: ID# 375067

Enc. Submitted documents

c: Requestor
(w/o enclosures)

cc: Mr. John Polster
Innovative Transportation Solutions
2701 Valley View Lane
Farmers Branch, Texas 75234-4924
(w/o enclosures)