



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 30, 2010

Mr. Brett Norbraten
Open Records Attorney
Texas Department of Aging and Disability Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2010-04438

Dear Mr. Brett Norbraten:

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# 375314 (DADS #2010SOLEG00139).

The Texas Department of Aging and Disability Services (the "department") received a request for all bids/tabs/attachments to present related and submitted to/for a specified bid, all bids from any and all staffing agencies providing nursing services for three specified locations, and all bids/tabs/attachments for five specified agencies. You state you have released most of the requested information. You take no position with respect to the public availability of the submitted information, but believe that the request may implicate the proprietary interests of a third party, Maxim Staffing Solutions ("Maxim"). Accordingly, you notified Maxim of this request for information and of its right to submit arguments to this office as to why the 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.

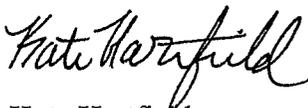
We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from Maxim explaining why its proposal should not be released. Therefore, we have no basis to conclude that Maxim 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, 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 department may not withhold any portion of the submitted information based upon the proprietary interests of Maxim. As the department raises no exceptions to disclosure, the department must release the submitted information.¹

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/dls

Ref: ID# 375314

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Christian Teague
Accounts Manager
Maxim Staffing Solutions, Inc.
5372 Fredericksburg Road, Suite 125
San Antonio, Texas 78229
(w/o enclosures)

¹We note that the information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.