



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 27, 2010

Ms. Sharon Alexander
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2010-07705

Dear Ms. Alexander: *ATTORNEY GENERAL OF TEXAS*

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# 381026.

The Texas Department of Transportation (the "department") received a request for all winning proposals and contracts awarded to MTG or MTG Management Consultants within the last ten years. You state you have released some of the information to the requestor. Although you state the department takes no position with respect to the public availability of the submitted information, you state its release may implicate the proprietary interests of a third party, MTG Management Consultants ("MTG"). Accordingly, you state, and provide documentation showing, the department notified MTG of the request 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) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

We note 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 MTG explaining why the submitted information should not be released. Therefore, we have no basis to conclude MTG 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. Consequently, the department may not withhold the submitted information on the basis of any proprietary interests MTG may have in the information. As the department raises no exceptions to disclosure of the submitted information, it must be released.

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# 381026

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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