



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 16, 2010

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

OR2010-10558

Dear Ms. Alexander:

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# 387285.

The Texas Department of Transportation ("TxDOT") received a request for (1) communications between TxDOT and a named individual over a specified period of time, (2) records of meetings between TxDOT and a named individual or specified entity over a specified period of time, and (3) certain records pertaining to a specified entity and the "pass-through toll program."¹ You state some of the requested information has been released. Although you take no position with respect to the public availability of the submitted information, you state you have notified an interested third party of the request and of the third party's right to submit arguments to this office as to why the submitted information should not be released.² See Gov't Code § 552.305(d); see also Open Records Decision

¹You state TxDOT sought and received clarification from the requestor regarding the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

²You have submitted documentation demonstrating TxDOT notified Austin Bridge and Road of the request.

No. 542 (1990) (determining that 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.

An interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code 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 letter, the third party has not submitted comments to this office explaining why any portion of the submitted information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate the third party's interests, and none of the information 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 no exception to disclosure of the submitted information has been raised, 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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/tp

Ref: ID# 387285

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Austin Bridge and Road
3535 Travis Street, Suite 300
Dallas, Texas 75204
(w/o enclosures)