



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 29, 2010

Ms. Jennifer C. Cohen  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78765-4087

OR2010-19470

Dear Ms. Cohen:

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# 404361 (ORA# 10-2308, 10-2327).

The Texas Department of Public Safety (the "department") received two requests for copies of the responses to RFO 405-IT10-0758. Although you take no position as to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of Qmatic Corp. ("Qmatic"), Nemo-Q, and ACF Technologies, Inc. ("ACF"). Thus, pursuant to section 552.305 of the Government Code, you notified Qmatic, Nemo-Q, and ACF of the request and of their right to submit arguments to this office as to why their information should not be released. Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have reviewed the submitted information.

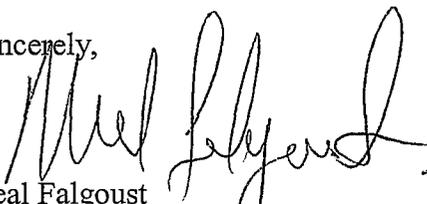
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Qmatic, Nemo-Q, or ACF explaining why any portion of the submitted information should not be released. Therefore, we have no basis to conclude Qmatic, Nemo-Q, or ACF has any 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 (1990). Consequently, the department may not withhold any of the submitted information on the basis of any proprietary interest Qmatic, Nemo-Q, or ACF may have in the information. As you raise no exceptions to disclosure, the submitted information must be released in its entirety.

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](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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/dls

Ref: ID# 404361

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

Mr. Kevin Rachel  
Qmatic Corp.  
95 Underwood Road  
Fletcher, North Carolina 28732  
(w/o enclosures)