



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2011

Ms. Kerri L. Butcher
Interim Chief Counsel
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR2011-06434

Dear Ms. Butcher:

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# 417040.

The Capital Metropolitan Transportation Authority (the "authority") received a request for the following information related to RFP #119198 for the operation and maintenance of a University of Texas shuttle and bus rapid transit system: (1) copies of all proposals submitted, including pricing submissions, (2) internal documents prepared during the evaluation process, (3) information provided by the proposers during the evaluation or interview, and (4) all committee, sub-committee, or board agenda items and documents related to the evaluation and award. You indicate the authority has provided the requestor with some of the requested information. We understand you take no position as to whether the submitted information is excepted under the Act.¹ In addition, you state the requested information may implicate the proprietary interests of third parties. Accordingly, you notified McDonald Transit Associates, Inc. ("McDonald") of the request and of its right to

¹Although you raise sections 552.101, 552.102, 552.103, 552.104, 552.105, 552.106, 552.107, 552.108, 552.110, 552.111, 552.113, 552.116, 552.117, 552.1175, 552.119, 552.125, 552.128, 552.129, 552.130, 552.136, 552.137, 552.139, 552.143, 552.146, 552.147, and 552.151 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information.

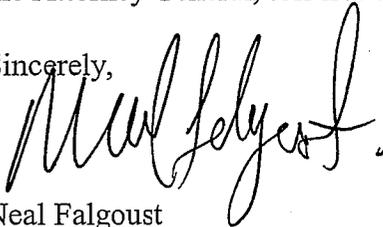
submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception 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 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from McDonald. Thus, McDonald has not demonstrated it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 authority may not withhold the submitted information on the basis of any proprietary interests McDonald may have in the information. As no exceptions to disclosure are raised, the submitted information 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

Ref: ID# 417040

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Robert T. Babbitt
President
McDonald Transit Associates, Inc.
3800 Sandshell Drive, Suite 175
Fort Worth, Texas 76137
(w/o enclosures)