



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2011

Ms. Shirley Thomas
Senior Assistant General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2011-08944

Dear Ms. Thomas:

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# 421598 (DART ORR 8125).

Dallas Area Rapid Transit ("DART") received a request for the winning bidder's proposal, pricing, and best and final offer regarding DART Solicitation: P-1018490 In-Plant Bus Inspection Services, as well as the evaluations pertaining to the requestor's company's and the winning bidder's proposals. You state DART has provided some of the requested information to the requestor. Although you indicate DART takes no position with respect to the public availability of the submitted bid proposal, you state its release may implicate the proprietary interests of Vehicle Technical Consultants Inc. ("VTC"). Accordingly, you state, and provide documentation showing, DART notified VTC 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.

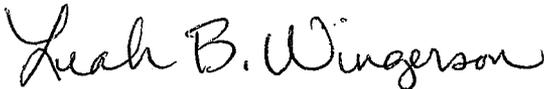
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from VTC explaining why the submitted proposal should not be released. Therefore, we have no basis to conclude VTC has protected proprietary interests in its 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, DART may not withhold any of the submitted information on the basis of any proprietary interest VTC may have in the information. As no exceptions to disclosure have been claimed, DART must release the submitted bid proposal.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 421598

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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