



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2011

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

OR2011-09803

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# 424165.

The Texas Department of Transportation (the "department") received two requests for bid tabulations for BID #B442011028960000. The department takes no position on whether the submitted information is excepted from disclosure, but states that release of this information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, that you notified the interested third parties of the request and of their right to submit arguments to this office as to why their information should not be released.¹ See Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

¹The third parties you have notified are as follows: Checkpoint Services, Inc.; Austin Ribbon and Computer; CAD Supplies Specialty Inc; CDW Government, LLC; Computer Tech; Marimon Business Systems; SHI-GS; U.S. Tech; and Xnet Systems, Inc.

We note that 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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the third parties have submitted comments to this office explaining why their submitted information should not be released. We, thus, have no basis for concluding that any portion of the submitted information constitutes proprietary information of these companies. *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. Accordingly, the department may not withhold any of the submitted information based on the proprietary interests of the third parties. As no exceptions to disclosure have been 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,



Kirsten Brew
Assistant Attorney General
Open Records Division

KB/em

Ref: ID# 424165

Enc. Submitted documents

c: Requestors
(w/o enclosures)

Austin Ribbon and Computer
9211 Waterford Centre Boulevard # 202
Austin, Texas 78758
(w/o enclosures)

CDW Government, LLC
230 North Milwaukee Avenue
Vernon Hills, Illinois 60061
(w/o enclosures)

Computer Tech
1810 North Greenville Avenue
Richardson, Texas 75081
(w/o enclosures)

Marimon Business Systems
7300 North Gessner
Houston, Texas 77040
(w/o enclosures)

SHI-GS
1301 South Mopac Expressway, Suite 375
Austin, Texas 78746
(w/o enclosures)

U.S. Tech
1412 San Jacinto Mall
Baytown, Texas 77521
(w/o enclosures)

Xnet Systems, Inc.
14503 Bammel North Houston Road, Suite 220
Houston, Texas 77014
(w/o enclosures)