



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 15, 2011

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

OR2011-13350

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# 430053.

The Texas Department of Transportation (the "department") received a request for the bid tabulations for two specified solicitations. Although you take no position on whether the requested information is excepted from disclosure, you state release of this information may implicate the proprietary interests of interested third parties.¹ Accordingly, you have notified these third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *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.

You state the department sought clarification for a portion of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public

¹The interested third parties are the following: Texas Electronics Information and Computer Corp.; Computer Express; Insight Public Sector; Computerland Texas; Sequel Data Systems, Inc; Criner-Daniels & Associates; U.S. Tech; Netsync Network Solutions; Reyna Enterprises, Inc.; NWN Corp.; and Austin Ribbon & Computer.

information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You further state although the requestor has not responded to the request for clarification, the department related this portion of the request to information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). Thus, we consider the department to have made a good-faith effort to identify the information that is responsive to the request.

We note that 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 decision, we have not received correspondence from any of the interested third parties. Thus, none of these interested third parties have demonstrated that they have 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 department may not withhold the submitted information on the basis of any proprietary interests these interested third parties may have in the information. 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 430053

Enc. Submitted documents

c: Requestor
(w/o enclosures)

TEICC
1315 Price Plaza
Katy, Texas 77449
(Third party w/o enclosures)

Computer Express
P.O. Box 691547
San Antonio, Texas 78269
(Third party w/o enclosures)

Insight Public Sector
6820 South Harl Avenue
Tempe, Arizona 85283
(Third party w/o enclosures)

Computerland Texas
2525 Kell Boulevard
Wichita Falls, Texas 76308
(Third party w/o enclosures)

Sequel Data Systems, Inc.
11824 Jollyville Road, Suite 400
Austin, Texas 78759
(Third party w/o enclosures)

Criner-Daniels & Associates
1776 Yorktown Street, Suite 525
Houston, Texas 77056
(Third party w/o enclosures)

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

Netsync Network Solutions
2500 West Loop South, Suite 510
Houston, Texas 77027
(Third party w/o enclosures)

Austin Ribbon & Computer
Suite 202
9211 Waterford Centre Boulevard
Austin, Texas 78758
(Third party w/o enclosures)

NWN Corporation
Suite 500
4802 North Sam Houston Parkway West
Houston, Texas 77086
(Third party w/o enclosures)

Reyna Enterprises, Inc.
131 East Pecan Boulevard
McAllen, Texas 78501
(Third party w/o enclosures)