



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 17, 2012

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

OR2012-00801

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# 442582.

The Texas Department of Transportation (the "department") received a request for the bid tabulations, evaluations, and "HSP documents" for all bidders listed in a specified bid recording report. You state you are releasing all HSP documents. Although you take no position as to the public availability of the submitted information, you state release of the submitted information may implicate the proprietary interests of Alamo I ("Alamo"), Progressive Environmental Services, Inc. d/b/a Eagle SWS ("Eagle"), Sam's Plumbing and Environmental Controls, L.L.C. ("Sam"), Talon LFE ("Talon"), Tetra Tech NUS Inc. ("Tetra"), TRC Environmental ("TRC"), and USA Environmental ("USAE"). Accordingly, you provide documentation showing you have notified these third parties of the request and their right to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

We note 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 ruling, we have not received comments from Alamo, Eagle, Sam, Talon, Tetra, TRC, or USAE. Thus, we have no basis to conclude these third parties 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 any of the information at issue on the basis of any proprietary interest Alamo, Eagle, Sam, Talon, Tetra, TRC, or USAE may have in the information. As no exceptions to disclosure have been raised, the department must release the submitted information.

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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 442582

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Talon Lfe  
17170 Jordan, Suite 102  
Selma, Texas 78154-1289  
(w/o enclosures)

Progressive Environmental Services  
P.O. Box 18619  
Panama City, Florida 32417-8619  
(w/o enclosures)

USA Environmental  
10234 Lucore Street  
Houston, Texas 77017-3432  
(w/o enclosures)

TRC Environmental  
505 East Huntland Drive, Suite 250  
Austin, Texas 78752-3740  
(w/o enclosures)

Tetra Tech Nus Inc.  
2901 Wilcrest Drive, Suite 495  
Houston, Texas 77042  
(w/o enclosures)

Alamo I  
10843 Gulfdale Street  
San Antonio, Texas 78216  
(w/o enclosures)

Sam's Plumbing & Environmental Controls, LLC  
7239 Dale Road  
El Paso, Texas 79915-2414  
(w/o enclosures)