



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 12, 2012

Mr. James G. Nolan  
Assistant General Counsel  
Open Records Section  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR2012-14454

Dear Mr. Nolan:

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# 465192.

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for the bid response submitted by a named company in response to RFO 304-11-1039NK. Although you take no position as to whether the submitted information is excepted under the Act, you inform us that release of this information may implicate the proprietary interests of NorthgateArinso ("Northgate"). Accordingly, you notified Northgate of the request for information and of the company's 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) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in 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 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, Northgate has not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude that Northgate has a protected proprietary interest in the submitted 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. Accordingly, the comptroller's office may not withhold any portion of the submitted information based upon the proprietary interests of Northgate. As no exceptions to disclosure are raised for the submitted information, it 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](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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 465192

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

NorthgateArinso  
Mr. Harold Babbit  
Legal Counsel  
810 Hesters Crossing Road  
Round Rock, Texas 78681  
(w/o enclosures)