



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 11, 2012

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

OR2012-19885

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# 473771.

The Texas Department of Transportation (the "department") received a request for bid information related to competitive procurement Q442012044935000 for a commercial vehicle travel survey, excluding the bid submission from Alliance Transportation Group, Inc. Although you take no position with respect to the public availability of the submitted information, you state the proprietary interests of certain third parties might be implicated. Accordingly, you notified ETC Institute ("ETC") and Quality Traffic Data ("QTD") of the request and their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third parties to submit to attorney general reasons why requested information should not be released); *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 applicability of exception 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 letter, we have not received arguments from ETC or QTD. Thus, ETC and QTD have not demonstrated the companies have protected proprietary interests 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 ETC or QTD 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, 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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 473771

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Quality Traffic Data
1400 Preston Road, Suite 400
Plano, Texas 75093
(w/o enclosures)

ETC Institute
725 West Frontier Circle
Olathe, Kansas 66061
(w/o enclosures)