



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 25, 2013

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

OR2013-10784

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# 491721.

The Texas Department of Transportation (the "department") received a request for information pertaining to a specified project: (1) the resumes, background descriptions, and statements of qualifications for any personnel, sub-consultants, partners, and joint venture teams received by the department from consulting firms; (2) the organizational charts and team structure documentation received by the department from consulting firms; and (3) the list of attendees for any preliminary meetings. You state you have no information responsive to a portion of the request.<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of HDR Engineering, Inc. ("HDR") and HNTB Corporation ("HNTB"). Accordingly, you state you notified HDR and HNTB of the request for information and of their 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

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

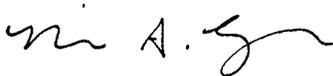
body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

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, we have not received comments from HDR or HNTB explaining why the submitted information should not be released. Therefore, we have no basis to conclude HDR or HNTB 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 department may not withhold the submitted information on the basis of any proprietary interest HDR or HNTB may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released.<sup>2</sup>

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

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<sup>2</sup>We note the information being released contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

Ref: ID# 491721

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

HDR Engineering, Inc.  
1421 Wells Branch Parkway, Suite 104  
Pflugerville, Texas 78660  
(w/o enclosures)

HNTB Corporation  
301 Congress Avenue, Suite 600  
Austin, Texas 78701  
(w/o enclosures)