



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 3, 2013

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

OR2013-11416

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# 492391.

The Texas Department of Transportation (the "department") received a request for the winning proposals from a specified biological services request for proposal. 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 Arcadis/Malcolm Pirnie ("Arcadis"), Blanton & Associates, Inc. ("Blanton"), ZARA Environmental, L.L.C. ("ZARA"), and Crouch Environmental Services, Inc. ("Crouch"). Accordingly, you state, and provide documentation showing, you notified Arcadis, Blanton, ZARA, and Crouch 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 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 Arcadis, Blanton, ZARA, or Crouch explaining why the submitted information should not

be released. Therefore, we have no basis to conclude Arcadis, Blanton, ZARA, and Crouch have 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest Arcadis, Blanton, ZARA, or Crouch 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.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,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/dls

Ref: ID# 492391

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Arcadis/Malcolm Pirnie  
100 Congress Avenue, Suite 1485  
Austin, Texas 78701  
(w/o enclosures)

Blanton & Associates, Inc.  
5 Lakeway Centre Court, Suite 200  
Austin, Texas 78734  
(w/o enclosures)

ZARA Environmental, L.L.C.  
1707 West FM 1626  
Manhaca, Texas 78652  
(w/o enclosures)

Couch Environmental Services, Inc.  
402 Teetshorn Street  
Houston, Texas 77009  
(w/o enclosures)