



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 17, 2013

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

OR2013-12206

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# 493420.

The Texas Department of Transportation (the "department") received a request for the bid tabulation for proposals submitted in response to solicitation number B4420130241760000. Although you take no position with respect to the public availability of the submitted information, you state it may contain proprietary information subject to exception under the Act. Accordingly, you state the department notified certain third parties of the request for information and of each company's right to submit arguments to this office as to why the requested information should not be released.¹ *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 decision, we have not received comments from any of the third parties. Thus, none of

¹The notified third parties are: CompuTrain Business Solutions; St. Edwards University; New Horizons CLC of Austin; Bright Water Ventures; The Learning Pad, LLC; and The University of Texas at Arlington.

the third parties have demonstrated 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 the submitted information on the basis of any proprietary interests any of the third parties may have in the information. As no exceptions to disclosure are 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.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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 493420

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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Austin, Texas 78759
(w/o enclosures)

CompuTrain Business Solutions
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6800 West Loop South Freeway
Bellaire, Texas 77401
(w/o enclosures)

New Horizons CLC of Austin
Suite 320
300 East Highland Mall Boulevard
Austin, Texas 78752
(w/o enclosures)

The Learning Pad, L.L.C.
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10435 Burnet Road
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(w/o enclosures)

St. Edwards University
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9420 Research Echelon Boulevard
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P.O. Box 19197
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