



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2013

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

OR2013-18378

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# 503121.

The Texas Department of Transportation (the "department") received a request for the bid tabulations for solicitation B442013023447000. 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 Michael Baker Jr., Inc. ("Baker"), Mandli Communications, Inc. ("Mandli"), Pathway Services, Inc. ("Pathway"), and Surveying and Mapping, Inc. ("SAM"). Accordingly, you state you notified Baker, Mandli, Pathway, and SAM 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.

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, we have not received comments from Baker, Mandli, Pathway, or SAM explaining why the submitted information should not be released. Therefore, we have no basis to conclude Baker, Mandli, Pathway, or SAM have

protected proprietary interests 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 Baker, Mandli, Pathway, or SAM 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, 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 503121

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Surveying and Mapping, Inc.
4801 Southwest Parkway, Suite 100
Austin, Texas 78735
(w/o enclosures)

Pathway Services, Inc.
2701 North Hemlock Court
Broken Arrow, Oklahoma 74012
(w/o enclosures)

Michael Baker Jr., Inc.
2221 East Lamar Boulevard, Suite 600
Arlington, Texas 76006
(w/o enclosures)

Mandli Communications, Inc.
4801 Tradewinds Parkway, Suite 101
Madison, Wisconsin 53718
(w/o enclosures)