



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 27, 2010

Ms. Maria Smith
North Texas Tollway Authority
P.O. Box 260729
Plano, Texas 75026

OR2010-01318

Dear Ms. Smith:

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# 368392.

The North Texas Tollway Authority (the "authority") received a request for two specified proposals pertaining to State Highway 161. You state the authority will release some of the requested information. You claim that the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also explain that this information may contain a third party's proprietary information subject to exception under the Act. Accordingly, you have notified Prairie Link Construction JV ("PLC") of this request for information and of its right to submit arguments to this office explaining why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the submitted argument and reviewed the submitted information.

Initially, we note the requestor has excluded from his request financial information and information contained in "Volume 2." Accordingly, any such information in the submitted information is not responsive to the present request for information. The authority need not release nonresponsive information in response to this request, and this ruling will not address that information.

Next, we note that although the authority raises section 552.110 as an exception to disclosure, that exception is designed to protect the interests of third parties, as opposed to the interests of governmental bodies. Therefore, we do not address the authority's argument under section 552.110. We note that 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, this

office has not received comments from PLC explaining why its information should not be released. Therefore, we have no basis to conclude that PLC 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 authority may not withhold any portion of the submitted information based upon the proprietary interests of PLC. As no further exceptions to disclosure have been raised, the responsive 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.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 Luttrall
Assistant Attorney General
Open Records Division

JL/jb

Ref: ID# 368392

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)