



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 4, 2013

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

OR2013-15380

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# 498769.

The Texas Department of Transportation (the "department") received a request for the bid tabulation for request for quote Q442013036761000, APC Struxureware. 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 INX Inc., NWN Corporation, Austin Ribbon & Computer, SHI Government Solutions, Inc., STS360, L.L.C., Graybar Electric Co., Southern Computer Warehouse, Inc., and Flair Data Systems, Inc.. Accordingly, you state, and provide documentation showing, you notified these third parties 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 any of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude these third parties 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, 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 these third parties 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 498769

Enc. Submitted documents

c: Requestor
(w/o enclosures)

INX, Inc.
Building B, Suite 120
7600 North Capital of Texas Highway
Austin, Texas 78731
(w/o enclosures)

NWN Corporation
4802 North Sam Houston Parkway West, Suite 500
Houston, Texas 77086
(w/o enclosures)

Austin Ribbon & Computer
9211 Waterford Centere Boulevard, Suite 202
Austin, Texas 78758
(w/o enclosures)

SHI Government Solution
1301 South Mopac Expressway #375
Austin, Texas 78746
(w/o enclosures)

STS360, LLC
14580 East Beltwood Parkway #107
Dallas, Texas 75244
(w/o enclosures)

Graybar Electric Co
1922 Waukesha Drive
Pflugerville, Texas 78660-2033
(w/o enclosures)

Southern Computer Warehouse
Building 300, Suite 106
1395 South Marietta Parkway
Marietta, Georgia 30067
(w/o enclosures)

Flair Data Systems
2805 Dallas Parkway, Suite 240
Plano, Texas 75093
(w/o enclosures)