



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 1, 2013

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

OR2013-17056

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# 500906.

The Department of Transportation (the "department") received a request for information pertaining to the department's request for proposals No. B442013017323000, Debt Collection Services. You state the department does not have some of the requested information.<sup>1</sup> You also state the department is releasing some information to the requestor. Although you take no position as to whether the remaining requested information is excepted from disclosure, you state release of this information may implicate the proprietary interests of MSB Government Services ("MSB") and NCO Financial Systems, Inc. ("NCO"). Accordingly, you notified MSB and NCO of the request for information and of each company's 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

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have reviewed the submitted information.

Initially, you state NCO's proposal was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-16586 (2013). In Open Records Letter No. 2013-16586, in which NCO's information was at issue, we concluded the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code and must release the remaining information. We have no indication of a change in the law, facts, or circumstances on which the previous ruling was based. Thus, with regard to NCO's proposal, we conclude the department must continue to rely on Open Records Letter No. 2013-16586 as a previous determination and withhold the information we marked under section 552.130 of the Government Code and release the remaining information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

Next, 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 letter, we have not received any comments from MSB explaining why any of the submitted information should not be released. Therefore, we have no basis to conclude MSB has protected proprietary interests in the 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. Consequently, the department may not withhold any of the submitted information on the basis of any proprietary interests MSB may have in the information. As no exceptions are 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,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/dls

Ref: ID# 500906

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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