



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 14, 2014

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

OR2014-18368

Dear Ms. Parker:

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# 539426.

The Texas Department of Transportation (the "department") received a request for copies of the department's AVN-551 form submitted by the consultant selected for each of five different RFQs issued by the department. The department does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the department states, and provides documentation showing, it notified Kleinfelder, Inc. ("Kleinfelder"), Loomacres Wildlife Management, Inc. ("Loomacres"), Environmental Resource Solutions, Inc. ("ERS"), and Mead & Hunt, Inc. ("Mead") of the department's receipt of the request for information and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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.

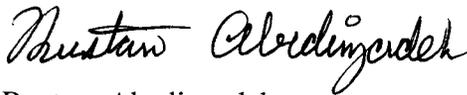
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Kleinfelder, Loomacres, ERS, and Mead have not submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding any portion of the submitted

information constitutes proprietary information of the third parties, and the department may not withhold any portion of the submitted information on that basis. See 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, as no exceptions to disclosure have been raised, the submitted information must be released in its entirety.

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,



Rustam Abedinzadeh  
Assistant Attorney General  
Open Records Division

RA/dls

Ref: ID# 539426

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Kleinfelder, Inc.  
7805 Mesquite Bend Drive, Suite 100  
Irving, Texas 75063  
(w/o enclosures)

Loomacres Wildlife Management, Inc.  
P.O. Box 361  
Warnersville, New York 12187  
(w/o enclosures)

Environmental Resource Solutions, Inc.  
1597 The Greens Way, Suite 200  
Jacksonville Beach, Florida 32250  
(w/o enclosures)

Mead & Hunt, Inc.  
8217 Shoal Creek Boulevard, Suite 108  
Austin, Texas 78757  
(w/o enclosures)