



January 7, 2015

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

OR2015-00209

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# 549670.

The Texas Department of Transportation (the "department") received a request for the bid filed by Exceed Staffing, L.L.C. ("Exceed") for solicitation number B332014010752000. Although the department takes no position as to whether the submitted information is excepted under the Act, it states release of the submitted information may implicate the proprietary interests of Exceed.¹ Accordingly, the department states, and provides documentation showing, it notified Exceed of the request for information and of its 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 have also received and considered comments from the requestor. *See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).*

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 id.*

¹The department acknowledges, and we agree, the department did not comply with section 552.301 of the Government Code in requesting this decision. *See Gov't Code § 552.301(b), (e).* Nonetheless, because third-party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third-party interests. *See id.* §§ 552.007, .302, .352.

§ 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Exceed explaining why the submitted information should not be released. Therefore, we have no basis to conclude Exceed 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest Exceed may have in the information.

We note the submitted information contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.² Gov't Code § 552.130(a). Upon review, we find the department must withhold the personal identification document we have marked under section 552.130 of the Government Code. As no other exceptions to disclosure have been raised, the remaining 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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 549670

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)