



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 20, 2016

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

OR2016-11590

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# 614434.

The Texas Department of Transportation (the "department") received a request for proposals of short-listed firms submitted in response to a specified request for proposals.<sup>1</sup> 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 third parties 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.<sup>2</sup> *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.

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<sup>1</sup>The department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

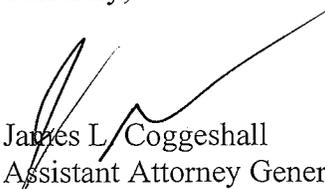
<sup>2</sup>The department notified the following: AIA Engineers, Ltd.; Aquirre & Fields; Atkins North America, Inc.; Bridgefarmer & Associates; Brown & Gay Engineers, Inc.; Civil Corp.; H. W. Lochner, Inc.; HDR Engineering, Inc.; Jacobs Engineering Group, Inc.; Kellogg Brown & Root Services, Inc.; Lamb-Star Engineering, L.P.; PTP Transportation, L.L.C.; Raba Kistner, Inc.; Reynolds, Smith, and Hills, Inc.; RS&H, Inc.; Sam-Construction Services; and Vokert.

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, none of the interested third parties has submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding the submitted information constitutes proprietary information of these third parties, and the department may not withhold any portion of it 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, 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. Therefore, the department must release the submitted information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/eb

Ref: ID# 614434

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

17 Third Parties  
(w/o enclosures)