



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 6, 2016

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

OR2016-19998

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# 625286.

The Texas Department of Transportation (the "department") received a request for specified information pertaining to two specified requests for proposals. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Solaray Engineering and RJN Group, Inc. Accordingly, you state, and provide documentation showing, you notified these interested third parties of the request and their right to submit arguments to this office. *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 considered the submitted information.

Initially, you state some of the requested information was the subject of previous requests for a ruling, as a result of which this office issued Open Records Letter Nos. 2016-05048 (2016), 2016-05954 (2016), 2016-11428 (2016), and 2016-14418 (2016). We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Thus, the department must continue to rely on Open Records Letter Nos. 2016-05048, 2016-05954, 2016-11428, and 2016-14418 as previous determinations and withhold or release the information at issue in accordance with those rulings. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 ruling, we have not received comments from either interested third party. Thus, we have no basis to conclude either interested third party has a protected proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); 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 any of the submitted information on the basis of any proprietary interest either interested third party may have in the information.

In summary, the department must continue to rely on Open Records Letter Nos. 2016-05048, 2016-05954, 2016-11428, and 2016-14418 as previous determinations and withhold or release the requested information previously ruled on in accordance with those rulings. The department must release the remaining 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, 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 625286

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)