



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 11, 2022

Ms. Audra Gonzalez Welter
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2022-07418

Dear Ms. Welter:

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# 935793 (Reference No. R009810-12221).

The Texas Department of Transportation (the "department") received a request for five categories of information pertaining to solicitation number 601340000044676. The department states it will release some information to the requestor. The department also states it will withhold or release some of the requested information pursuant to Open Records Letter No. 2021-35541 (2021).¹ Although the department takes no position regarding whether the submitted information is excepted from disclosure under the Act, the department informs us its release may implicate the proprietary interests of third parties. Accordingly, the department states, and provides documentation showing, it notified these third parties of the request for information and of their right to submit arguments to this office.² 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

¹ 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).

² We understand the department notified the following third parties: Cerida Investment d/b/a Answer Net; DLB Industries, LLC; LexHelper; MAP Communications, Inc.; Westpark Communications, L.P.; and xtDirect, LLC.

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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any interested third party explaining why the information at issue should not be released. Thus, we have no basis to conclude any of the interested third parties have a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the department may not withhold the submitted information on the basis of any proprietary interest any interested third party may have in the information. Accordingly, 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/be

Ref: ID# 935793

c: Requestor

c: 6 Third Parties