



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 14, 1995

Ms. R. Yvette Clark
General Counsel
Stephen F. Austin State University
P.O. Box 13065, SFA Station
Nacogdoches, Texas 75962-3065

OR95-960

Dear Ms. Clark:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35311.

Stephen F. Austin State University received a request for information relating to a contract between the university and The Coca-Cola Company. You contend that the requested information is excepted from required public disclosure under sections 552.101 and 552.110 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that because the contract at issue contains a confidentiality clause the information is excepted from disclosure under section 552.101. Governmental bodies are prohibited from entering into contracts to keep information confidential. Open Records Decision Nos. 514 (1988), 484 (1987), 479 (1987). Accordingly, a governmental body may not use a contract to invoke section 552.101. Open Records Decision No. 491 (1988). You may not withhold the requested information under section 552.101 of the Government Code.

You also claim that the requested information constitutes a trade secret under section 552.110 and is therefore excepted from disclosure. Pursuant to section 552.305, we notified The Coca-Cola Company of the request for information. Although you assert arguments that the information is a trade secret, The Coca-Cola Company, by subsequent correspondence with this office, "elects not to designate any of the information contained in that contract as being proprietary." Accordingly, you may not withhold the requested information under section 552.110 of the Government Code. The requested information must be released in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/LBC/rho

Ref: ID# 35311

Enclosures: Submitted documents

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