OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

July 14, 1999

Mr. Mario L. Vasquez
Assistant General Counsel
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

OR99-1953

Dear Mr. Vasquez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125711.

The Houston Independent School District (the "district") received a request for information related to any communications regarding any dealings or business relationships between the district and Scott T. LeBlanc, Mary Hobbs LeBlanc, EduCOM Consulting Group, Inc. and/or IRM International ("third parties"). The request is limited to items not already produced to this requestor. The district asserts that it "is of the opinion that this information would generally be public information." The district further asserts that the information "is not subject to disclosure to the Plaintiffs in accordance with [a specified court order]." The district contends that the information is excepted from disclosure by sections 552.101 and 552.110 of the Government Code, in conjunction with this court order. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You contend that an Order to Compel Discovery, entered in the case *Enterprise Consulting Group, a Michigan corporation, and Comsul, LTD, a California corporation vs. Scott T. LeBlanc and EDUCOM CONSULTING GROUP, INC., A Louisiana corporation*, No. 98-70320 (E.D. Mich, filed April 30, 1999), makes the subject information confidential. You have supplied a copy of that order. In relevant part it reads,

> [Defendants shall provide plaintiff] any document reflective of any contractual relationship of any nature between Houston Independent School District, HISD Public Corporation (PUC) . . . and Defendants Scott T. LaBlanc and Educom Consulting Group, Inc either directly or indirectly as primary contractor or subcontractor . . .[A]ll *information provided to Plaintiff's counsel under this Order will* be confidential." (emphasis added)

From our close reading of this order, we conclude that it prohibits *Plaintiff's counsel* from releasing documents *received under the order*. Nothing in this order makes information held

by the district confidential or prohibits the district from releasing the subject information. We conclude that the subject information is not confidential and may not be withheld under section 552.101of the Government Code.

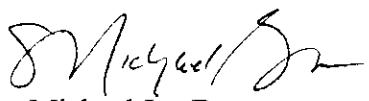
You also contend that this order is grounds for excepting the subject information from disclosure under section 552.110 of the Government Code. This section protects the property interests of those supplying information to governmental entities by excepting from disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. Gov't Code §552.110. You have not established that the order is grounds for applying section 552.110 to the subject information.

You indicate that you have notified the third parties of the pending request for information and your request for the opinion of this office. Pursuant to section 552.305 of the Government Code, this office also informed these parties of the request and provided them the opportunity to claim any exception to disclosure they may contend applies to the requested information, together with argument in support of those exceptions. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Government Code section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exceptions in certain circumstances). They did not respond. As we have no basis to determine the applicability of section 552.110 of the Government Code to the responsive information, no information may be withheld under this section.

We conclude that you have not demonstrated that the subject information is excepted from disclosure under either section 552.101 or section 552.110 of the Government Code. Therefore, the information must be released to this requestor.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 125711

Encl. Submitted documents

cc: Ms. Cynthia Haffey
Butzel Long
150 W. Jefferson, Suite 900
Detroit, Michigan 48226-4430
(w/o enclosures)