



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2010

Ms. Cheryl G. Cash
Office of General Counsel
Texas Southern University
3100 Cleburne Avenue
Houston, Texas 77004

OR2010-04648

Dear Ms. Cash:

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# 374828.

Texas Southern University (the "university") received a request for a specified request for proposals ("RFP") and the university's current food service management contract with Sodexo Services of Texas ("Sodexo"). You state the university has released the requested RFP. Although you take no position on the public availability of the submitted information, you state that the information at issue may implicate the interests of a third party. Accordingly, you submit documentation showing that you notified Sodexo of the request for information and of Sodexo's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

We note that 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 that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any arguments from Sodexo. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate Sodexo's proprietary interests. *See, e.g.*, Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by

specific factual evidence 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). Accordingly, the university may not withhold any portion of the submitted information on the basis of Sodexo's proprietary interests. As no arguments have been made against the disclosure of the submitted information, it must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 374828

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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