



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2012

Mr. Brian S. Nelson
General Counsel
Lone Star College System
5000 Research Forest Drive
The Woodlands, Texas 77381

OR2012-02834

Dear Mr. Nelson:

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# 446336 (LSCS File No. PR12-1213-00033).

The Lone Star College System (the "system") received a request for any current beverage, beverage vending, and snack vending contract, and any beverage sponsorship agreement, relating to the North Harris campus. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Custom Food Group, L.P. ("CFG"). You state you have notified CFG of this request and of the company's right to submit arguments to this office stating why its information should not be released. *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).

An interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code 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, CFG has not submitted comments to this office explaining why any portion of the submitted information should not be released to the requestor. Thus, we have no basis to conclude the release of any portion of the submitted information would implicate CFG's proprietary interests, and none of the information may be withheld on that basis. *See id.* § 552.110;

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). As no arguments against disclosure of the submitted information have been raised, it must be released.

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# 446336

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Oscar M. Perez
Senior V.P. of Sales and Marketing
Custom Food Group, L.P.
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Dallas, Texas 75235
(w/o enclosures)