



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 28, 2012

Ms. Sylvia Hardman-Dingle  
General Counsel  
Texas Department of Assistive and Rehabilitative Services  
MC-1419  
4800 North Lamar Boulevard, Suite 300  
Austin, Texas 78756

OR2012-19110

Dear Ms. Hardman-Dingle:

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# 472940 (PIA Request No. 2012 09/18-1Hine).

The Texas Department of Assistive and Rehabilitative Services (the "department") received a request for documents pertaining to "DARS Desktop Services Req. #53800-2-3000023597." Although you take no position as to whether the submitted information is excepted under the Act, you inform us that release of this information may implicate the proprietary interests of Northrop Grumman ("Northrop"), Unisys, and Vintage IT Services ("Vintage"). Accordingly, you notified these companies of the request and of their right to submit arguments to this office as to why the submitted 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 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances).* We have received comments from Northrop. We have considered the submitted argument and reviewed the submitted information.

Initially, you inform us most of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-12790 (2012). In that ruling, we determined the department must withhold the information pertaining to Northrop that we marked under section 552.110(b) of the

Government Code and the remaining information must be released. As we have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based, we conclude the department must rely on Open Records Letter No. 2012-12790 as a previous determination and continue to withhold or release the information subject to that ruling in accordance with it.<sup>1</sup> 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not exempted from disclosure). However, we will address the public availability of the remaining information.

We note 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 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, Unisys and Vintage have not submitted comments to this office explaining why the remaining information should not be released. Therefore, we have no basis to conclude these companies have a protected proprietary interest in the remaining information. See *id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, 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), 542 at 3. Accordingly, the department may not withhold any portion of the remaining information based upon the proprietary interests of Unisys or Vintage.

In summary, the department must rely on Open Records Letter No. 2012-12790 as a previous determination and continue to withhold or release the information subject to that ruling in accordance with it. As no exceptions to disclosure are raised for the remaining information, the department must release it.

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](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

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<sup>1</sup>As our ruling for this information is dispositive, we need not address Northrop's argument against disclosure.

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,



**Kenneth Leland Conyer**  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 472940

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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