



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2013

Ms. Ashley Wilson
General Counsel
Dallas County Schools
612 North Zang Boulevard
Dallas, Texas 75208

OR2013-09187

Dear Ms. Wilson:

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# 489375 (Reference No. W000216-032013).

Dallas County Schools ("DCS") received a request for any materials related to RFP# 11-19-12-01. You inform us DCS has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you inform us the release of this information may implicate the proprietary interests of Education Logistics, Inc. ("Education Logistics"); Trapeze Software Group, Inc. ("Trapeze Software"); and U.S. Computing, Inc. (U.S. Computing). Accordingly, you notified these third parties of the request for information and of their rights 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 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have received comments from Education Logistics. We have considered the submitted arguments and reviewed the submitted information.

Initially, 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) of the Government Code 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,

Trapeze Software and U.S. Computing have not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude these third parties have a protected proprietary interest in the submitted 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, DCS may not withhold any portion of the submitted information based upon the proprietary interests of Trapeze Software or U.S. Computing.

Education Logistics asserts section 552.104 of the Government Code for some of its information. This section excepts from required public disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov’t Code § 552.104(a). However, section 552.104 is a discretionary exception that protects only the interests of a governmental body, as distinguished from exceptions that are intended to protect the interests of third parties. *See* Open Records Decision Nos. 592 (1991) (statutory predecessor to section 552.104 designed to protect interests of a governmental body in competitive situation, not interests of private parties submitting information to government), 522 (1989) (discretionary exceptions in general). As DCS does not seek to withhold any information pursuant to this exception, no portion of the submitted information may be withheld under section 552.104 of the Government Code.

We note portions of the submitted information are subject to section 552.130(a)(1) of the Government Code, which provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by any agency of this state or another state or country is excepted from public release.¹ *See* Gov’t Code § 552.130(a)(1). Accordingly, DCS must withhold the driver’s license information we have marked under section 552.130(a)(1) of the Government Code. As no further exceptions to disclosure are raised for the remaining information, DCS 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, or call the Office of the Attorney General’s Open Government Hotline, toll free,

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 489375

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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