ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2014

Mr. Christopher B. Gilbert
Counsel for the La Porte Independent School District
Thompson & Horton LLP
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

OR2014-11309

Dear Mr. Gilbert:

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# 527654.

The La Porte Independent School District (the "district"), which you represent, received a request for the spread sheet and supporting data used to create a specified chart. You claim the requested information is not subject to the Act.[1] You further state release of this information may implicate the proprietary interests of the Southwest Securities Group ("Southwest"). Accordingly, you state, and provide documentation demonstrating, the district notified Southwest of the request and of its right to submit arguments to this office as to why its 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 received comments from Southwest. We have considered the submitted arguments.

You argue the requested information is not subject to the Act. The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002(a) defines "public information" as:

[1]Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the requested information. *See* Gov't Code §§ 552.301, .302.

> [I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:
>
> (1) by a governmental body;
>
> (2) for a governmental body and the governmental body:
>
> (A) owns the information;
>
> (B) has a right of access to the information; or
>
> (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
>
> (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Thus, virtually all information in a governmental body's physical possession constitutes public information subject to the Act. *Id.* § 552.002(a)(1); *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Furthermore, the Act applies to information a governmental body does not physically possess if the information is collected, assembled, or maintained for a governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2). Thus, information that is collected, assembled, or maintained by a third party may be subject to disclosure under the Act if a governmental body owns or has a right of access to the information. *See* Open Records Decision No. 462 (1987). However, in Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code.

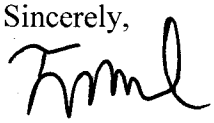
You state the district does not maintain any of the requested information. You state the information at issue consists of computer data and programs maintained by Southwest, a private company hired by the district to assist in preparing various financial analyses related to upcoming bond elections. You claim the district does not own or have a right of access to any of the information at issue and, in support, have provided to this office a copy of the consulting agreement with Southwest entered into in December 2012. Upon review, we note the district's consulting agreement with Southwest does not provide the district a general right to access or inspect the information at issue. Thus, based on your representations and our review, we determine the information at issue is not public information for purposes of

section 552.002 of the Government Code. Therefore, the requested information need not be provided in response to this request.[2]

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 527654

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Doug Whitt
Senior Vice President
Southwest Securities, Inc.
700 Central Expressway, Suite 410
Allen, Texas 75013
(w/o enclosures)

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[2]As our ruling is dispostive, we need not address Southwest's argument against disclosure of the requested information.