



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 6, 2014

Mr. W. Montgomery Meitler  
Senior Counsel  
Office of Legal Services  
Texas Education Agency  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2014-20171

Dear Mr. Meitler:

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# 542806 (TEA PIR# 22771).

The Texas Education Agency (the “agency”) received a request for the RFP issued by the agency for Central Operations of the Texas Virtual School Network and all responses received by the agency. You state you will release the RFP to the requestor. You also state the agency has destroyed non-awarded proposals in accordance with the agency’s records retention schedule.<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Region 10 Education Service Center (the “Center”). Accordingly, you state you notified the Center of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See Gov’t Code* § 552.305 (permitting interested third party to submit to attorney general reasons why

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

requested information should not be released); *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). We have reviewed the submitted 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, we have not received comments from the Center explaining why its information should not be released. Therefore, we have no basis to conclude the Center has 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 the 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 agency may not withhold the submitted information on the basis of any proprietary interest the Center may have in it. As no exceptions to disclosure have been raised, the submitted information 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Rustam Abedinzadeh  
Assistant Attorney General  
Open Records Division

RA/dls

Ref: ID# 542806

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. David Vincent  
Region 10 Education Service Center  
400 East Spring Valley  
Richardson, Texas 75083  
(w/o enclosures)