



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 23, 2015

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2015-05472

Dear Ms. McGowan:

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# 557279 (ORR# 13664).

The Dallas Independent School District (the "district") received a request for information pertaining to RFP# MS-0204155 Opinion Survey of Specified Groups. The district does not take a position as to whether the submitted information is excepted from disclosure under the Act. However, the district states, and provides documentation showing, it notified Oak Hill Technology, Inc. ("Oak Hill") and Rincon & Associates LLC ("Rincon") of the district's receipt of the request for information and of the right of each to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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 received correspondence from Oak Hill objecting to the release of some of the information at issue under section 552.110 of the Government Code. We have reviewed the submitted arguments and information.

Initially, we note the submitted information pertaining to Oak Hill was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-12898 (2014). We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, the district must continue to rely on

Open Records Letter No. 2014-12898 as a previous determination and withhold or release Oak Hill's information in accordance with that ruling.¹

We next 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 requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Rincon has not submitted to this office any reasons explaining why the requested information should not be released. Thus, we have no basis for concluding the submitted information constitutes proprietary information of that third party, and the district may not withhold any portion of it on that basis. *See* 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.

To conclude, the district must continue to rely on Open Records Letter No. 2014-12898 as a previous determination and withhold or release Oak Hill's information in accordance with that ruling. The district must release the remaining information to the requestor.

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/akg

¹*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 excepted from disclosure).

Ref: ID# 557279

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Edward T. Rincon
Rincon & Associates LLC
6500 Greenville Avenue, Suite 120
Dallas, Texas 75206
(w/o enclosures)

Ms. Julie M. Brownson
President
Oak Hill Technology, Inc.
12505-A Trail Driver
Austin, Texas 78737
(w/o enclosures)