



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2015

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

OR2015-17240

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# 576311.

The Department of Assistive and Rehabilitative Services ("DARS") received a request for information pertaining to a specified request for proposal. Although you take no position as to whether the requested information is excepted under the Act, you state release of this information may implicate the proprietary interests of Business Ink, Company ("Business Ink"). Accordingly, you state, and provide documentation showing, you notified Business Ink of the request for information and of its right to submit arguments stating 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 requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received arguments on behalf of Business Ink. We have considered the submitted arguments and reviewed the submitted information.

We note Business Ink seeks to withhold information that DARS has not submitted to this office for our review. Because the information Business Ink seeks to withhold was not submitted by the governmental body, this ruling does not address that information and is limited to the responsive information submitted by DARS. *See* Gov't Code § 552.301(e)(1)(D).

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 responsive information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B) (governmental body requesting decision from Attorney General must submit copy of specific information requested). We have received comments from Business Ink only arguing non-responsive information is confidential. Therefore, we have no basis to conclude Business Ink has any protected proprietary interests 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, DARS may not withhold the submitted information on the basis of any proprietary interest Business Ink may have in the information. As no further 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, 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,



Joseph Keeney
Assistant Attorney General
Open Records Division

JDK/eb

Ref: ID# 576311

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Ted Simmonds
Blue Ink Company
10214 North IH 35, Building II
Austin, Texas 78753-3708
(w/o enclosures)