



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 13, 2015

Mr. W. Montgomery Meitler
Senior Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2015-23958

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# 587284 (TEA PIR# 25270).

The Texas Education Agency (the "agency") received a request for new contracts and all addenda reached with Education Testing Service for Program Integration, State of Texas Assessments of Academic Readiness ("STAAR") 3-8, and STAAR end-of-course assessments, and with NCS Pearson, Inc. ("Pearson") for STAAR Alternate, Texas English Language Proficiency Assessment System, and Texas Acknowledgment of Knowledge and Skills. You state you will release some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state the release of this information may implicate the proprietary interests of Pearson. Accordingly, you state, and provide documentation showing, you notified Pearson of the request for information and of its right to submit arguments to this office as to why the information at issue 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); *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.

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 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, this office has

not received comments from Pearson explaining why its information should not be released to the requestor. Thus, we have no basis to conclude the release of the submitted information would implicate Pearson's interests, and none of the submitted information may be withheld on that basis. *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. As no exceptions to disclosure have been raised, the agency must release the submitted information.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/eb

Ref: ID# 587284

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. David M. Clark
NCS Pearson, Inc.
400 Center Ridge Drive
Austin, Texas 78753
(w/o enclosures)