



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 15, 2015

Mr. Dan Junell  
Assistant General Counsel  
Teacher Retirement System of Texas  
1000 Red River Street  
Austin, Texas 78701

OR2015-26348

Dear Mr. Junell:

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# 590974 (TRS Reference Deloitte 16-1).

The Teacher Retirement System of Texas (the "system") received a request for information pertaining to a specified request for proposals, including the winning proposal, forms associated with the procurement, and the final executed contract. You state the system will withhold certain information under section 552.136(c) of the Government Code.<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 Gabriel, Roeder, Smith & Company. Accordingly, you state, and provide documentation showing, you notified this third party 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); *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 to submit its reasons, if any, as to why information relating

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<sup>1</sup>Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, we have not received correspondence from the third party. Therefore, we have no basis to conclude it has any protected proprietary interests in the submitted information. *See id.* § 552.110(a)-(b); 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, the system may not withhold any portion of the submitted information based upon the proprietary interests of the third party.

We note some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no exceptions to disclosure have been raised, the system must release the submitted information, but any information protected by copyright may be released only in accordance with copyright law.

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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/akg

Ref: ID# 590974

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Joe Newton  
Gabriel, Roeder, Smith & Company  
5605 North MacArthur Boulevard, Suite 870  
Irving, Texas 75038  
(w/o enclosures)