



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 17, 1996

Mr. Richard J. Ybarra
Assistant Attorney General
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78731

OR96-1680

Dear Mr. Ybarra:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 100121.

The Office of the Attorney General has received a request for certain records relating to the "NECSSES Transfer for the State's Automated Child Support Enforcement System." You explain that the requested information implicates the proprietary interests of two private entities, Andersen Consulting and Deloitte & Touche. You state that Anderson Consulting does not object to releasing any of the requested information. You raise section 552.110 of the Government Code on behalf of Deloitte & Touche and express concern that several of the requested documents are copyrighted. Pursuant to Section 552.305, we contacted Deloitte & Touche to provide them the opportunity to explain how section 552.110 excepts the records from required public disclosure. Deloitte & Touche did not respond to our inquiry.

Section 552.110 protects the property interests of private persons by excepting from required public disclosure two types of information: (1) trade secrets, and (2) commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. We must accept a claim that a document is excepted as a trade secret if a prima facie case for exception is made and no argument is submitted that rebuts the claim as a matter of law. Open Records Decision No. 592 (1991) at 2. However, when a governmental agency or company fails to provide any evidence of the factors necessary to establish a trade secret claim, we cannot conclude that section 552.110 applies. Open Records Decision No. 402 (1983). Similarly, neither you nor Deloitte & Touche provided

any information establishing that the information is protected as "commercial or financial information" under the second prong of section 552.110. *See* Open Records Decision No. 639 (1996). Thus, section 552.110 does not except the requested information from required public disclosure.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: 100121

Enclosures: Submitted documents

cc: Ms. Meg Cino
Contracts Administrator
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Glenpointe Centre East
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(w/o enclosures)

Mr. Robert N. Campbell, III
Principal
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(w/o enclosures)

¹Regarding the copyrighted materials, a governmental body must allow inspection of copyrighted materials; it need not furnish copies. Attorney General Opinion JM-672 (1987).

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