



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 6, 2009

Ms. Mia M. Martin
General Counsel
Richardson Independent School District
400 South Greenville Avenue
Richardson, Texas 75081-4198

OR2009-02950

Dear Ms. Martin:

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# 337383.

The Richardson Independent School District (the "district") received a request for "all responses to the Disability Insurance RI1014" for the district including, without limitation, "all information provided bidders regarding rates, plan design, deviations, and the questionnaire of the winning bidder's response." You state that the district has agreed to release some responsive information to the requestor. Although the district takes no position on the release of the remaining responsive information, you explain that it may contain proprietary information subject to exception under the Act. Accordingly, you have notified Metropolitan Life Insurance Company ("MetLife"), MacGriff, Seibals and Williams ("MacGriff"), The Hartford ("Hartford"), Unum, Sun Life Financial ("Sun Life"), UnitedHealthcare Specialty Benefits ("UnitedHealthcare"), Reliance Standard ("Reliance"), CIGNA, Prudential, and eSchool Solutions, Inc., ("eSchool") of this request for information and of their right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

You state, and provide documentation to confirm, that you provided the requestor with an itemized cost estimate for the portion of the responsive information you stated you would

release. Cost estimates are provided for by section 552.2615 of the Government Code, which states in relevant part:

(a) [T]he governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request . . . is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 days after the date the statement is sent to the requestor that

(1) the requestor will accept the estimated charge;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of public information.

Gov't Code § 552.2615(a), (b). Upon review, we agree that the cost estimate you provided to the requestor complies with the requirements of section 552.2615(a). You inform us that the requestor has not responded to this estimate within ten days, as required by section 552.2615(b). Accordingly, we conclude that the present request has been withdrawn as a matter of law with regard to the portion of the responsive information you stated you would release. The district need not release this information to the requestor.

We next address the remainder of the requested information, which you state may contain proprietary information subject to exception under the Act. We note that 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 that party should be withheld from disclosure. See Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received any correspondence from MacGriff, Hartford, Unum, Sun Life, UnitedHealthcare, Reliance, CIGNA, Prudential, or eSchool. We have received documents that MetLife submitted to you in response to your section 552.305 notice, but these documents do not contain any written commentary asserting specific exceptions against disclosure. Accordingly, we have no basis to conclude that any of these parties has any protected proprietary interests in the responsive information. Thus, the district may not withhold any of the submitted information on that basis. See *id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

Finally, we note that some of the submitted information is 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. See Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. See *id.* 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. See Open Records Decision No. 550 (1990).

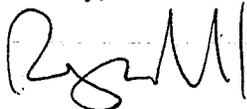
In summary, none of the third parties you notified has submitted arguments against disclosure and, as you also raise no exception to disclosure, we conclude that the district must release the submitted information to the requestor, but must comply with copyright law in so doing.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 337383

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

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