



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2009

Mr. James Tourtelott
Assistant General Counsel
Texas Higher Education Coordinating Board
P.O. Box 12778
Austin, Texas 78711

OR2009-07775

Dear Mr. Tourtelott:

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# 346004.

The Texas Higher Education Coordinating Board (the "board") received a request for a copy of the board's contract with Neogov, Inc. ("Neogov") for the applicant tracking system. You state there is no contract between the board and Neogov and explain the board has a contract with SHI Government Solutions ("SHI"), which has a contract with Neogov. We note a governmental body must make a good-faith effort to relate a request to information that it holds. *See* Open Records Decision No. 561 at (1990) (construing statutory predecessor). The board has submitted information it states may be responsive to the request. We conclude the board has made a good-faith effort to relate this request to responsive information, and we will determine whether the submitted information must be released to the requestor. Although you take no position on the requested information, you state it may contain proprietary information subject to exception under the Act. Accordingly, you state and provide documentation showing the board notified Neogov and SHI of the request for information and of each company's right to submit arguments to this office as to why the requested information 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 considered 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 under section 552.305(d) 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, neither Neogov nor SHI has submitted to this office any reasons explaining why their submitted information should not be released. Therefore, Neogov and SHI have not provided us with any basis to conclude they have protected proprietary interests in any of the submitted information. *See* 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 the board makes no arguments against disclosure, the submitted information must be released to the requestor.

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,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/rl

Ref: ID# 346004

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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