



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2010

Mr. W. Montgomery Meitler
Assistant Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2010-01356

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# 368577 (TEA PIR# 12136).

The Texas Education Agency (the "agency") received a request for five categories of information relating to RFP No. 701-10-002, including the winning proposal. You state the agency has released most of the requested information. Although the agency takes no positions with respect to the winning proposal, you state it may implicate the proprietary interests of a third party, New Teacher Center ("Center"). Accordingly, you have notified Center of this request for information and of its right to submit arguments to this office as to why its proposal 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.

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 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 any correspondence from Center. Thus, Center has not demonstrated that it has a protected proprietary interest in any of 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 agency may not withhold the submitted information on the basis of any proprietary interest Center may have in it. As the agency raises no exceptions against disclosure, the agency must release the submitted information 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, toll free at (888) 672-6787.

Sincerely,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/jb

Ref: ID# 368577

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Eric Hirsch
New Teacher Center
725 Front Street, Suite 400
Santa Cruz, California 95060
(w/o enclosures)