



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2010

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

OR2010-07026

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# 379666 (TEA PIR# 12750).

The Texas Education Agency ("TEA") received a request for information relating to a request for offers ("RFO") for PEIMS maintenance, including the winning vendor's response to the RFO and statement of work and the current maintenance contract. You state that the contract either has been or will be released. You inform us that insurance policy numbers have been redacted from the winning vendor's proposal pursuant to the previous determination issued under section 552.136 of the Government Code in Open Records Decision No. 684 (2009).¹ You take no position on the public availability of the rest of the submitted information. You believe, however, that the remaining information may implicate the proprietary interests of Cooper Consulting Company ("Cooper"). You inform us that Cooper was notified of this request for information and of its right to submit arguments to

¹This office recently issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision, including an insurance policy number under section 552.136.

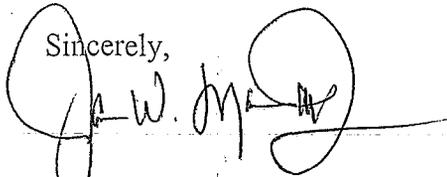
this office as to why the information at issue should not be released.² We have reviewed the information you submitted.³

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from Cooper. Thus, because Cooper has not demonstrated that any of the submitted information is proprietary for the purposes of the Act, TEA may not withhold any of the submitted information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Therefore, as TEA does not claim an exception to disclosure, the submitted information must be released.

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/rl

²*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

³You inform us that TEA has no responsive statement of work, other than whatever information is contained in Cooper's proposal. We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Ref: ID# 379666

Enc: Submitted documents

cc: Requestor
(w/o enclosures)

c: Ms. Melynda B. Caudle
Cooper Consulting Company
4201 Bee Cave Road, Building C, Suite 200
West Lake Hills, Texas 78746
(w/o enclosures)