



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 27, 2010

Ms. Kelly J. Shook
Shwartz & Eichelbaum
Wardell, Mehl and Hansen, P.C.
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2010-07758

Dear Ms. Shook:

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#380760.

The Mission Consolidated Independent School District (the "district"), which you represent, received a request for records, specifically pricing information, submitted by the winning bidder of proposal #06-07-SP10 for networking equipment and installation in one of the district's schools.¹ Although you take no position on whether the requested pricing information is excepted from disclosure, you state release of this information may implicate the proprietary interests of Calence, LLC. Accordingly, you have notified Calence, LLC of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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.

We note that 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 correspondence from Calence, LLC. Thus, Calence, LLC 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

¹You state that the district received a clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

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 (1990). Accordingly, the district may not withhold the submitted information on the basis of any proprietary interests Calence, LLC may have in the information. As no exceptions to disclosure have been raised, the requested 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb

Ref: ID#380760

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Diana Berger
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(w/o enclosures)