



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 28, 2010

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

OR2010-14758

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# 394915 (TEA PIR # 13504).

The Texas Education Agency (the "agency") received a request for a copy of the contract between the agency and NCS Pearson, Inc. ("Pearson") for the Texas Projection Measure. Although the agency takes no position as to the disclosure of the submitted information, you state its release may implicate the proprietary interests of Pearson. Accordingly, you have notified Pearson of the request and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in 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 under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Pearson explaining why the submitted information should not be released. Thus, we have no basis to conclude that Pearson has a protected proprietary interest in the submitted

information. *See id.* § 552.110; 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 (1990). As no exceptions to disclosure have been raised, we conclude 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 394915

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

cc: Mr. Walter Sherwood
Pearson
400 Center Ridge Drive
Austin, Texas 78753
(w/o enclosures)