



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2011

Mr. Frank J. Garza
Counsel for the Brownsville Public Utility Board
Davidson & Troilo, P.C.
7550 West IH-10, Suite 800
San Antonio, Texas 78229-5815

OR2011-10052

Dear Mr. Garza:

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# 423846.

The Brownsville Public Utility Board (the "board"), which you represent, received a request for seven categories of information pertaining to agreements or proposed agreements between the board and Public Charters, Inc., Fly Frontera, or any similarly named companies. You state you will release most of the requested information. Although you take no position as to the public availability of the submitted final draft report, you indicate its release may implicate the proprietary interests of Professors Mostafa Malki and Rafael Otero. Thus, pursuant to section 552.305 of the Government Code, you notified the professors of the request and of their right to submit arguments to this office as to why their 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 applicability of exception to disclosure 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 the professors explaining why any portion of the final draft report should not be released.

Therefore, we have no basis to conclude the professors have a protected proprietary interest in the final draft report. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, third 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). Consequently, the board may not withhold the final draft report on the basis of any proprietary interest the professors may have in it. Therefore, as you raise no exceptions to its disclosure, the final draft report 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 423846

Enc. Submitted documents

c: Requestor
(w/o enclosures)