



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2011

Ms. Elisabeth D. Nelson
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2011-18022

Dear Ms. Nelson:

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# 438053.

The Carrollton-Farmers Branch Independent School District (the "district"), which you represent, received a request for (1) any environmental studies conducted on land the district purchased inside the Irving TIF #1 since the TIF's creation, including any cover letters submitted to the district which summarized the studies and (2) a copy of any purchase orders for those same studies. You state the information responsive to item number two is outside of the applicable records retention schedules and, therefore, was no longer maintained by the district when the request was received.¹ You take no position on the public availability of the information responsive to item one. You believe, however, that this part of the request for information may implicate the proprietary interests of Rone Engineers, Ltd. ("Rone").² You inform us that Rone was notified of this request for information 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); Open Records Decision No. 542 (1990) (statutory predecessor

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²You inform us the information at issue was prepared by Leigh Engineering, Inc., now known as Rone Engineers, Ltd.

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). We have reviewed the information you submitted.

Initially, you state some of the information in Exhibit B-2 is not responsive because it pertains to land that was not purchased by the district. Accordingly, we find this information, which you have marked, is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

Next, 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 not received any correspondence from Rone. Therefore, Rone has not demonstrated that any of the information at issue is proprietary for the purposes of the Act, and the district may not withhold any of the responsive information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Thus, as the district does not claim an exception to disclosure, the responsive information in Exhibits B-1 and B-2 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 438053

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Sonja D. Williams, P.E.
Department Manager
Rone Engineers, Ltd.
8908 Ambassador Row
Dallas, Texas 75247
(w/o enclosures)