



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 27, 2012

Ms. Daphne Session
Houston County Attorney
401 East Houston Avenue, Second Floor
Crockett, Texas 75835

OR2012-04499

Dear Ms. Session:

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# 4-9254.

The Houston County Attorney's Office (the "county attorney's office") received a request for a specified memorandum of understanding between Houston County and Crockett Independent School District, as well as Houston County's response to a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Southwest Key Programs, Inc. ("SWK").¹ Accordingly, we understand you notified SWK of the 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); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note you have not submitted information responsive to the request for the specified memorandum of understanding between Houston County and Crockett Independent School District. To the extent any information responsive to this portion of the request

¹You inform us the county attorney's office withdraws its initial claim under section 552.104 of the Government Code. Accordingly, we do not address this exception to disclosure.

existed on the date the county attorney's office received the request, we assume the county attorney's office has released it. If the county attorney's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 SWK explaining why the submitted information should not be released. Therefore, we have no basis to conclude SWK 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. Accordingly, the county attorney's office may not withhold the submitted information on the basis of any proprietary interest SWK may have in the information. As no exceptions to disclosure have been raised, 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 449254

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Southwest Key Programs, Inc.
c/o Ms. Daphne Session
Houston County Attorney
401 East Houston Avenue, Second Floor
Crockett, Texas 75835
(w/o enclosures)