



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 6, 2013

Mr. Ray Rodriguez  
Assistant City Attorney  
Office of the City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2013-07472

Dear Mr. Rodriguez:

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# 486426 (COSA File Nos. W013430-021813 and W013405-021813).

The City of San Antonio (the "city") received two requests from the same requestor for all quarterly compliance reports filed by InCube Labs, LLC ("InCube") to the San Antonio Development Corporation ("SADC") under the parties' economic development agreement and all "InCube Certifications" regarding capital raised from private sources as defined in a specified agreement. Although you take no position as to whether the submitted information is excepted under the Act, you inform us the release of this information may implicate the proprietary interests of InCube and SADC. Accordingly, you notified InCube and SADC of the request for information and of their 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 Act in certain circumstances). We have reviewed the submitted information.

We note 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, neither InCube nor SADC has submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude these companies have 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 city may not withhold any portion of the submitted information based upon the proprietary interests of InCube and SADC. As no exceptions to disclosure of the submitted information are raised, the city must release it.

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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 486426

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)

Mr. Ed Davis  
Director  
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