



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 30, 2013

Mr. Chad J. Lersch  
Assistant General Counsel  
Texas Department of Information Resources  
P.O. Box 13564  
Austin, Texas 78711-3564

OR2013-08981

Dear Mr. Lersch:

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# 488970.

The Texas Department of Information Resources (the "department") received a request for information pertaining to the solicitation for Information Technology Staff Augmentation Contract. You state the department has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state release of this information may implicate the proprietary interests of RFD & Associates, Inc. ("RFD"). Accordingly, the department notified RFD 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 considered your argument and reviewed the submitted information.

Although the department argues that the submitted information is excepted under section 552.110 of the Government Code, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the department's argument under section 552.110. 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, we have not received comments from RFD explaining why its information should not be released. Therefore, we have no basis to conclude RFD 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 department may not withhold any of the information at issue on the basis of any proprietary interest RFD may have in it. As no other 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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/tch

Ref: ID# 488970

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

RFD & Associates, Inc  
c/o Chad J. Lersch  
Assistant General Counsel  
Texas Department of Information Resources  
P.O. Box 13564  
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(w/o enclosures)