



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 23, 2013

Ms. Cheryl T. Mehl  
Roosevelt Independent School District  
Eichelbaum, Wardell, Hansen, Powell & Mehl, P.C.  
4201 West Parmer Lane, Suite A-100  
Austin, Texas 78727

OR2013-12649

Dear Ms. Mehl:

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# 493951.

The Roosevelt Independent School District (the "district"), which you represent, received a request for documents submitted to the district by Southwest Foodservice Excellence, L.L.C. ("Southwest") in March or April 2013 in 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. Accordingly, you state, and provide documentation showing, you notified Southwest 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 note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any comments from Southwest explaining why any of the submitted information should not be released. Therefore, we have no basis to conclude Southwest has protected proprietary interests in the 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. Consequently, the district may not withhold any of the submitted information on the basis of any proprietary interests Southwest may have in the information. As no further exceptions are 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/dls

Ref: ID# 493951

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Michael Nuzzi  
Southwest Foodservice Excellence, L.L.C.  
9304 East Raintree, Suite 110  
Scottsdale, Arizona 85260  
(w/o enclosures)