



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 16, 2014

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2014-01022

Dear Ms. McGowan:

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# 511308.

The Dallas Independent School District (the "district") received a request for a specified contract with Group Excellence, checks written to Group Excellence for a specified time period, and the bid proposals and evaluation committee notes relating to a specified request for proposals. You state the district will release some of the requested information. We understand you have redacted insurance policy numbers pursuant to section 552.136(c) of the Government Code.¹ You claim the requested 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 third parties. Accordingly, you state, and provide documentation showing, you notified Group Excellence, Readers 2 Leaders ("R2L"), and Reading Partners Dallas 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

¹Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

explain applicability of exception in the Act in certain circumstances). We have received comments from R2L. We have considered the submitted arguments and reviewed the submitted information.

Although the district argues that the requested 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 district'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 Group Excellence and Reading Partners Dallas explaining why their information should not be released. Therefore, we have no basis to conclude Group Excellence or Reading Partners Dallas 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 district may not withhold any of the information at issue on the basis of any proprietary interest Group Excellence or Reading Partners Dallas may have in it.

R2L claims some of its submitted information is excepted from disclosure under section 552.110(b) of the Government Code. Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6 (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).

Upon review of R2L's arguments and the information at issue, we find R2L has made only conclusory allegations that the release of any of its submitted information would result in substantial damage to its competitive position. Thus, R2L has not demonstrated that substantial competitive injury would result from the release of any of its submitted information. *See* Open Records Decision Nos. 661, 509 at 5 (1988) (because bid specifications and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts is too speculative). Accordingly, none of the submitted information may be withheld under section 552.110(b). As no further exceptions 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.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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 511308

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Lauren Sanderson
Regional Manager
Group Excellence
7616 LBJ Freeway, Suite 515
Dallas, Texas 75251
(w/o enclosures)

Ms. Kaitlin Guthrow
Regional Executive Director
Reading Partners Dallas
2910 Swiss Avenue
Dallas, Texas 75204
(w/o enclosures)

Mr. Ted Schweinfurth
Counsel for Readers 2 Leaders
Baker & McKenzie, LLP
2001 Ross Avenue, Suite 2300
Dallas, Texas 75201
(w/o enclosures)