



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2014

Mr. Ronn P. Garcia
Counsel for the Region 17 Education Service Center
Underwood Law Firm, P.C.
P.O. Box 16197
Lubbock, Texas 79490

OR2014-12760

Dear Mr. Garcia:

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# 531129.

The Region 17 Education Service Center (the "center"), which you represent, received two requests from different requestors for information related to a specified request for proposals. You state the center has released some information to the first requestor. You state the center has no information responsive to a portion of the first request.¹ Although we understand you to take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Dee's Food Service, Labatt Food Services, Quintero's Meat Company, Inc. ("Quintero's"), and Sysco West Texas. Accordingly, you state, and provide documentation showing, you notified these third parties 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*

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

§ 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 the submitted comments and 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). We have received comments from Quintero's, but Quintero's does not claim any exceptions to disclosure. Furthermore, as of the date of this letter, we have not received comments from any other third party explaining why its information should not be released. Therefore, we have no basis to conclude these third parties 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 center may not withhold any of the information at issue on the basis of any proprietary interest these third parties may have in it. 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.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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/ds

Ref: ID# 531129

Enc. Submitted documents

c: Ms. Becky DeAtley
Bid Manager
Key Impact Sales & Systems, Inc.
307 East FM 1626
Austin, Texas 78748-3910
(w/o enclosures)

Mr. David A. Elwell
Dee's Food Service
19 Butterfield Trail
El Paso, Texas 79906
(w/o enclosures)

Mr. Alfred Garcia
Labatt Food Services
5824 Elm Street
Lubbock, Texas 79404
(w/o enclosures)

Mr. Juan Garcia
Quintero's Meat Company, Inc.
4413 Durazno Avenue
El Paso, Texas 79905
(w/o enclosures)

