



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 8, 2011

Mr. R. Brooks Moore
Managing Counsel
The Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2011-11362

Dear Mr. Moore:

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# 427005.

The Texas Transportation Institute, an agency of the Texas A&M University System (the "system"), received a request for all licensing agreements since January 1985 with a named entity regarding four specified patents and documentation of any resulting royalty payments to the system. Although the system takes no position regarding whether the submitted information is excepted from disclosure,¹ you state release of the requested information may implicate the proprietary interests of a third party. Accordingly, you provide documentation showing you notified Trinity Industries, Inc. ("Trinity") of the request and its right to submit arguments to this office. *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 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 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 ruling, we have not received comments from Trinity. Thus, we have no basis to

¹Although you initially raised sections 552.101 and 552.103 of the Government Code in your initial letter dated June 13, 2011, we understand you no longer assert those exceptions.

conclude Trinity has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 system may not withhold any of the information at issue on the basis of any proprietary interest Trinity may have in the information. As no exceptions to disclosure have been raised for the submitted information, it must be released to the requestor.

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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/tf

Ref: ID # 427005

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Gregg Mitchell
President
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(w/o enclosures)