



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

February 3, 2006

Ms. Pamela Smith  
Assistant General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773

OR2006-01156

Dear Ms. Smith:

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# 240438.

The Texas Department of Public Safety (the "department") received a request for a vendor's cost proposal and technical proposal, submitted in response to a department request for proposal that was subsequently cancelled and re-issued, as well as any evaluations of the responses to the initial request for proposal. You inform us that you will release to the requestor copies of the evaluations and copies of portions of the requested technical and cost proposals. You claim that portions of the submitted information may be excepted from disclosure under sections 552.101 and 552.110 of the Government Code. Furthermore, you note that Digimarc ID Systems, LLC ("Digimarc") may have proprietary interests in the submitted information. Pursuant to section 552.305 of the Government Code, you notified Digimarc of the request and of their opportunity to submit comments to this office. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). Digimarc submits arguments against the disclosure of portions of the submitted information. Digimarc argues that the following information is excepted from disclosure under sections 552.101, 552.104, and 552.110 of the Government Code: page numbers 2.12.7-3 through 2.12.7-7; 2.12.7-8; 2.12.8-2 through 2.12.8-3; 2.12.9-1; 6-62 through 6-82; and 6-87 through 6-132; as well as the entire sections entitled "Cost Proposal" and "Feature Sheets and Card Samples." However, the department did not submit all of this information to us for review. Accordingly, this ruling does not address information related to Digimarc beyond what the department submitted to us for review and is limited to the

information the department submitted as responsive to the instant request. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

As a preliminary matter, you inform us that the information at issue in the present request with regard to Digimarc was the subject of a prior ruling of this office, issued as Open Records Letter No. 2006-00141 (2005) on January 5, 2006. *See* Open Records Decision No. 673 (2001) (governmental body may rely on prior ruling as previous determination when 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling). We understand you to represent that the pertinent facts and circumstances have not changed since the issuance of Open Records Letter No. 2006-00141. Thus, we determine the department may rely on that ruling as a previous determination for such records. As our ruling is dispositive, we need not address your arguments against disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaime L. Flores  
Assistant Attorney General  
Open Records Division

JLF/er

Ref: ID# 240438

Enc. Submitted documents

c: Mr. Paul B. Starr  
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(w/o enclosures)