



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 20, 2009

Ms. Jacqueline Hojem
Paralegal for Ms. Pauline E. Higgins
Metropolitan Transit Authority of Harris County
P.O. Box 61429
Houston, Texas 77208-1429

OR2009-02255

Dear Ms. Hojem:

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# 335501 (MTA No. 2009-0045).

The Metropolitan Transit Authority of Harris County ("METRO") received a request for "the Request for Proposal and all submitted bid documents related to a request regarding advertising on METRO buses and bus shelters conducted approximately three years ago." METRO states that it is releasing the requested request for proposal (invitation for bid) to the requestor. METRO takes no position on whether the submitted information is excepted from disclosure, but states that release of this information may implicate the proprietary interests of CEMUSA, Culver Amherst, Direct Media, and Viacom Outdoor (collectively, the "third parties"). Accordingly, you inform us, and provide documentation showing, that you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

We note that 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 any of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude that any of the 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, METRO may not withhold the submitted information based upon the proprietary interests of the third parties.

We note that Culver Amherst's submitted information contains bank account numbers that are excepted from disclosure under section 552.136 of the Government Code.¹ Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). This office considers bank account numbers to be access device numbers. Accordingly, METRO must withhold these numbers, which we have marked, under section 552.136 of the Government Code. As no further exceptions against the disclosure of the remaining submitted information are raised, this information 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 at (512) 475-2497.

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 335501

Enc. Submitted documents

cc: Requestor

(w/o enclosures)

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