



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2009

Ms. Mia M. Martin
General Counsel
Richardson Independent School District
400 South Greenville Avenue
Richardson, Texas 75081-4198

OR2009-05176

Dear Ms. Martin:

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# 340420.

The Richardson Independent School District (the "district") received a request for the winning bid for a specified request for proposal. Although you take no position as to whether the submitted information must be released to the requestor, you state that the submitted documents may contain proprietary information subject to exception under the Act. Accordingly, you state that the district notified eSchool Solutions Inc. ("eSchool") of the request for information and of its 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 explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we understand you to assert that the request has been withdrawn by operation of law because the requestor has failed to respond to an itemized cost estimate for copies of the documents the district has deemed "not subject to possible exception" under the Act. *See* Gov't Code § 552.2615. Under section 552.2615, a governmental body is required to provide a requestor with an estimate of charges when a request to inspect a paper record will result in the imposition of a charge that will exceed forty dollars. *See id.* The relevant portion of section 552.2615 provides:

(a) [T]he governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request . . . is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 days after the date the statement is sent to the requestor that

(1) the requestor will accept the estimated charge;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of public information.

Id. § 552.2615(a), (b). You state, and provide supporting documentation, that you provided the requestor with an itemized cost estimate for a portion of the requested information. Further, you state that the requestor did not respond to the issued estimate. However, we note that section 552.2615 applies only to cost estimates exceeding forty dollars. *See id.* § 552.2615(a). As the cost estimate at issue did not exceed forty dollars, section 552.2615 is not applicable, and the request has not been withdrawn by operation of law.

Next, an interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, eSchool has not submitted comments to this office explaining why any portion of the submitted information relating to it should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate its proprietary interests, and none of it may be withheld on this basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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).

However, we note that portions of the submitted information contain insurance policy numbers.¹ Section 552.136 of the Government Code provides 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. Accordingly, the district must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

Finally, we note that some of the submitted information is copyrighted. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

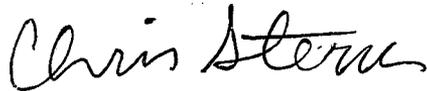
In summary, the district must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The district must release the remaining information, but any information protected by copyright must be released in accordance with copyright law.

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.

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).

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,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 340420

Enc. Submitted documents

c: Requestor
(w/o enclosures)