



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 25, 2009

Ms. Maria Miller
Public Information Officer
Dallas County Community College District
1601 South Lamar, Suite 208
Dallas, Texas 75215-1816

OR2009-13541

Dear Ms. Miller:

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# 356567.

The Dallas County Community College District (the "district") received a request for copies of proposals submitted in response to RFP# 11437. Although you take no position on the public availability of the submitted information, you indicate that it may contain proprietary information. You state that you have notified the interested third parties of the request and of their opportunity to submit comments to this office as to why the submitted information should not be released to the requestor.¹ See Gov't Code § 552.305(d); see also 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 the applicability of exception to disclose under Act in 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 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, we have not received comments from any of the third parties explaining why their submitted information should not be

¹The third parties are as follows: Mach B Technologies, Inc.; AskReply, Inc. (dba B2Gnow); AECsoft USA, Inc; and National Source Solutions, LLC.

released. Therefore, we have no basis to conclude that any of these third parties has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 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). Accordingly, the district may not withhold any portion of the submitted information based upon the proprietary interests of the third parties.

We note that the submitted information contains insurance policy numbers. 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.”² 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 appears to be protected by copyright. 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 information 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.

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,

²The 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).

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,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 356567

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

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