



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2011

Mr. Philip Marzec
Escamilla, Poneck & Cruz, L.L.P.
P.O. Box 200
San Antonio, Texas 78291-0200

OR2011-05346

Dear Mr. Marzec:

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# 416325.

The San Antonio Independent School District (the "district"), which you represent, received a request for three categories of information pertaining to a specified request for qualifications for financial underwriting services. You state you will release some of the requested information to the requestor. Although you take no position with respect to the public availability of the submitted information, you state that it may contain proprietary information subject to exception under the Act. Accordingly, you state, and provide documentation showing, that the district notified the interested third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.¹ *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 under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to it should not be released. *See*

¹The interested third parties are: Cabrera Capital Markets; Raymond James; First Southwest Company; RBC Capital Markets; Frost National Bank; Piper Jaffray; Morgan Stanley; Wells Fargo Brokerage Services, L.L.C.; Bank of America, Merrill Lynch; Loop Capital Markets; Siebert Brandford Shank & Co., L.L.C.; Morgan Keegan & Company, Inc.; and Stifel Nicolaus.

Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any comments from any of the interested third parties. Thus, none of the interested third parties have demonstrated they have 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 (1990). Accordingly, the district may not withhold any of the submitted information based on the proprietary interests of the interested third parties.

We note some of the submitted information may 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. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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. As no exceptions to disclosure have been raised, the submitted information must be released, but any information that is protected by copyright may only 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, 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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tf

Ref: ID# 416325

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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San Antonio, Texas 78230
(w/o enclosures)

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Raymond James
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San Antonio, Texas 78212
(w/o enclosures)

Mr. Raul Villasenor
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Mr. Robert V. Henderson
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