



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 23, 2011

Ms. Shirley Thomas  
Acting General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2011-13761

Dear Ms. Thomas:

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# 431001 (DART ORR No. 8355).

Dallas Area Rapid Transit ("DART") received a request for all complete bid packages, including pricing, for commercial janitorial services from 2010 and 2011. You do not raise any exceptions to disclosure of the submitted information. However, you state release of this information may implicate the proprietary interests of Triad Commercial Services ("Triad"), ERMC IV, LP ("ERMC"), Meridian Management ("Meridian"), and Camelot Services ("Camelot"). Thus, pursuant to section 552.305 of the Government Code, you state DART notified Triad, ERMC, Meridian, and Camelot of the request for information and of those companies' right to submit arguments to this office as to why their information should not be released. 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 applicability of exception to disclosure under in certain circumstances). We have reviewed the submitted information.

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 Triad, ERMC, Meridian, or Camelot explaining why any portion of the company's information should not be released. Therefore, we have no basis to conclude Triad, ERMC, Meridian, or Camelot has 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, third 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). Consequently, DART may not withhold any of the submitted information on the basis of any proprietary interest Triad, ERMC, Meridian, or Camelot may have in the information.

We note portions of the submitted information are subject to section 552.136 of the Government Code, which provides that “[n]otwithstanding any other provision of [the Act], 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.”<sup>1</sup> Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device number for purposes of section 552.136. We conclude DART must withhold the insurance policy and bank account numbers we have marked under section 552.136 of the Government Code. The remaining submitted information must be released.

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](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,



Bob Davis  
Assistant Attorney General  
Open Records Division

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

Ref: ID# 431001

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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Mr. William Capps  
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Mr. Duane Rettig  
Triad Commercial Services  
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