



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2011

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2011-14952

Dear Ms. McGowan:

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# 433082.

The Dallas Independent School District (the "district") received a request for invoices, requests for proposals, bid proposals, and other specified documents related to contracts or projects awarded to Alpha Business Images, LLC ("ABI"). You state the district has provided some of the requested information to the requestor. Although you indicate the district takes no position with respect to the public availability of the submitted bid proposals, you state their release may implicate the proprietary interests of ABI; Burson-Marsteller, LLC; Dodd Communications; The Harrell Group; Image Advantage; PRISM Advantage; RAIZ Inc.; The Reeds Public Relations Corporation; and Verve Communications Group, LLC. Accordingly, you state, and provide documentation showing, the district notified these companies of the request and of each company's 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) (determining 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 received comments from Image Advantage. We have considered the submitted arguments and 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 received comments from only Image Advantage explaining why its submitted information should not be released. Therefore, we have no basis to conclude any of the other notified third parties have protected proprietary interests in their 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. Consequently, the district may not withhold any of the submitted information on the basis of any proprietary interests the other notified third parties may have in the information.

Image Advantage claims a portion of its submitted information is excepted from disclosure under section 552.110(b) of the Government Code, which protects “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; ORD 661 at 5-6.

Image Advantage claims its annual revenue amount contained in its bid proposal constitutes commercial and financial information that, if released, would cause the company substantial competitive harm. Upon review, however, we find Image Advantage has made only general conclusory assertions that release of this information would cause it substantial competitive injury, and has provided no specific factual or evidentiary showing to support such assertions. *See generally* Open Records Decision Nos. 661, 509 at 5 (1988) (because costs, bid specifications, and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts is too speculative), 319 at 3 (1982) (information relating to organization and personnel, professional references, market studies, qualifications, and pricing are not ordinarily excepted from disclosure under statutory predecessor to section 552.110). Consequently, the district may not withhold Image Advantage's annual revenue amount contained in its bid proposal under section 552.110(b) of the Government Code. As Image Advantage has not claimed any other exceptions to disclosure for its annual revenue amount, the district must release this information.

We note the submitted information contains insurance policy numbers. Section 552.136 of the Government Code provides:

- (a) In this section, “access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or

instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding 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.¹

Gov't Code § 552.136. We conclude the insurance policy numbers we have marked constitute access device numbers for purposes of section 552.136. Thus, the district must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The district must release the remaining information.

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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

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# 433082

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Ramona Logan
Ramona Logan-Image Advantage
5930 LBJ Freeway, Suite 1200
Dallas, Texas 75240
(w/o enclosures)

Ms. Sophia Dowl
General Partner
Alpha Business Images, LLC
6440 North Central Expressway
Dallas, Texas 75206
(w/o enclosures)

Ms. Rebecca Shaw
Burson-Marteller
11th Floor
1845 Woodall Rodgers Freeway
Dallas, Texas 75201
(w/o enclosures)

Mr. Terry D. Loftis
Verve Communication Group, LLC
325 North Saint Paul Street, Suite 1360
Dallas, Texas 75201
(w/o enclosures)

Mr. Louis Henry
President
PRISM Advantage
4310 Wiley Post Road, Suite 200
Addison, Texas 75001
(w/o enclosures)

Mr. Mauricio Navarro
President
RAIZ, Inc.
Suite 325
4300 North Central Expressway
Dallas, Texas 75206
(w/o enclosures)

Mr. Jackson J. Harrell
President
The Harrell Group
Suite 325
208 North Market Street
Dallas, Texas 75202
(w/o enclosures)

Ms. Carol Reed Martin
CFO - COO
The Reeds Public Relations Corp.
3232 McKinney Avenue, Suite 855
Dallas, Texas 75204
(w/o enclosures)

Ms. Sara Dodd
Owner
Dodd Communications
5538 Ridgedale
Dallas, Texas 75206
(w/o enclosures)