



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 4, 2011

Ms. Emily Boswell  
Officer for Public Information  
Hutto Independent School District  
200 College Street  
Hutto, Texas 78634

OR2011-16263

Dear Ms. Boswell:

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# 435265.

The Hutto Independent School District (the "district") received a request for "any [Requests for Proposals] that were submitted by Alpha Media for school bus advertising." You claim that the requested information is excepted from disclosure under section 552.110 of the Government Code. You also state that release of the requested information may implicate the interests of a third party, Alpha Media. Accordingly, you state, and provide documentation demonstrating, the district notified Alpha Media of the request for information and of its right to submit arguments stating why its information should not be released. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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 applicability of exception in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

You raise section 552.110 of the Government Code, arguing that release of the information "could be harmful to Alpha Media." However, because section 552.110 is designed to protect the interests of third parties, not those of governmental bodies, a governmental body may not raise section 552.110 on behalf of a third party. Therefore, if we do not receive comments from a third party explaining why the information at issue should not be released, we will conclude section 552.110 is not applicable. 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 it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from Alpha Media explaining why the submitted information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the requested information would implicate Alpha Media's interests. *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. Accordingly, we conclude that the district may not withhold any of the requested information on the basis of any interest Alpha Media may have in the information. As no further exceptions to disclosure have been raised, the district must release the submitted 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\\_ori.php](http://www.oag.state.tx.us/open/index_ori.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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/ag

Ref: ID# 435265

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Beauchamp  
Alpha Media  
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Dallas, Texas 75205  
(w/c enclosures)