



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 29, 2012

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Section
1400 S. Lamar
Dallas, Texas 75215

OR2012-03155

Dear Ms. McClellan:

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# 446759 (DPD Request Number: 2011-11361).

The Dallas Police Department (the "department") received a request for all contract amendments pertaining to RFCSPP-BCZ0503: Meter Operations and Parking Management Information System. Although we understand you take no position with respect to the public availability of the submitted information, you state that release of the submitted information may implicate the proprietary interests of ACS State & Local Solutions, Inc. ("ACS").¹ Accordingly, you state you have notified ACS of the request and of its right to submit arguments as to why the submitted information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have received comments from ACS. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note ACS seeks to withhold information the department has not submitted for our review. This ruling does not address information beyond what the department has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body

¹Although you raise sections 552.101, 552.102, 552.103, 552.104, 552.107, 552.108, 552.110, 552.111, 552.117, 552.1175, 552.127, 552.128, 552.130, 552.136, 552.137, and 552.147 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information.

requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information the department has submitted as responsive to the request for information. *See id.*

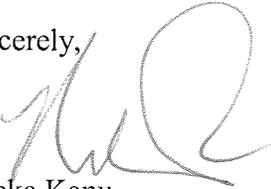
Next, we must address the department's obligations under the Act. Section 552.301 of the Government Code describes the obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions to disclosure that apply within ten business days after receiving the request. *Id.* § 552.301(b). Furthermore, pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.* § 552.301(e). You state the department received the present request for information on December 9, 2011. However, the submitted request shows the request was initially date-stamped as received on November 28, 2011. Accordingly, the department's ten and fifteen-business-day deadlines were December 12, 2011 and December 19, 2011, respectively. However, you did not request a ruling from this office until December 22, 2011. Furthermore, you did not submit a copy or representative sample of the information requested to this office until December 28, 2011. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Consequently, we find the department failed to comply with the requirements of section 552.301.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). A compelling reason exists when third-party interests are at stake or when information is confidential by law. Open Records Decision No. 150 at 2 (1977). Because the interests of a third party can provide a compelling reason to overcome the presumption of openness, we will consider whether the third party's interests provide a compelling reason to withhold any portion of the requested information from disclosure. As no exceptions to disclosure have been raised for the information submitted for our review, the department 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_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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 446759

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

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