



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2012

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
600 North Bell Boulevard
Cedar Park, Texas 78613

OR2012-03853

Dear Ms. Quinn:

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# 447741 (CP Ref. Nos. 12-170 and 12-209).

The City of Cedar Park (the "city") received a request for the requestor company's score and the winning proposal for RFP # 11-014-211, and a second request from the same requestor for all qualified and scored bids for the same request for proposal.¹ You state the city will release some of the requested information to the requestor. Although you take no position on the public availability of the submitted information, you state the submitted information may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, you notified the following third parties: Magic Logix; Aha!; Limb Design; CivicPlus; GWID Design; Proof Advertising; Intrafinity; American Eagle; Blue Clover; C&T Information Technology Consulting, Inc.; Staats Faulkenberg; Kreativ Technologies; and Vision Internet Providers, Inc. (collectively, the "third parties") of the request and of their right to submit comments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to

¹We note the city received clarification from the requestor regarding the second request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under 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) 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 any of the third parties on why their submitted information should not be released. Therefore, we have no basis to conclude the third parties have protected proprietary interests 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, 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 city may not withhold any of the submitted information on the basis of any proprietary interest the third parties may have in it.

We note some of the submitted information is subject to section 552.136(b) of the Government Code, which states “[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.”² Gov't Code § 552.136(b). This office has determined an insurance policy number is an access device for purposes of section 552.136. Therefore, the city must withhold the insurance policy numbers we have marked under section 552.136.

We note some of the information at issue 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.

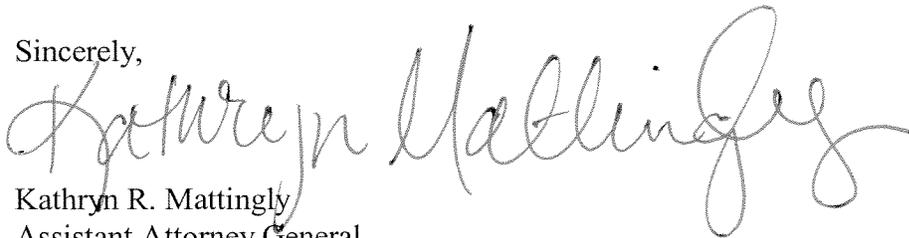
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the city must withhold the information we have marked under section 552.136 of the Government Code. The remaining information must be released, but any information protected by copyright may only be released in accordance with copyright law.³

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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/dls

Ref: ID# 447741

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Mr. Steve B. Chapin
President
Vision Internet Providers, Inc.
2530 Wilshire Boulevard, Second Floor
Santa Monica, California 90403
(w/o enclosures)

³We note the remaining information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

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