



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 25, 2012

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

OR2012-05860

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# 451451 (DART ORR No. 8797).

Dallas Area Rapid Transit ("DART") received a request for the winning proposal, supporting documents, price sheets, and executed contract pertaining to DART's mobility management service delivery contract. You state some information has been released. Although you take no position on its public availability, you believe the submitted information may implicate the proprietary interests of MV Transportation, Inc. ("MV"). You inform us MV was notified of the request for the submitted information and of its right to submit arguments to this office as to why the information should not be released.<sup>1</sup> We have reviewed the information you submitted.

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its

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<sup>1</sup>See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

reasons, if any, as to why information relating to the party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from MV. Therefore, as MV has not demonstrated any of the information at issue is proprietary for purposes of the Act, DART may not withhold any of the submitted information on the basis of any interest MV may have in the information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

We note some of the submitted information is subject to section 552.136 of the Government Code.<sup>2</sup> Section 552.136 of the Government Code states “[n]otwithstanding 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.” Gov't Code § 552.136(b). This office has determined bank account numbers are access device numbers for purposes of section 552.136. Accordingly, DART must withhold the bank account number we have marked under section 552.136 of the Government Code.

We note some of the submitted information appears to be subject to copyright law. A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See* Open Records Decision No. 180 at 3 (1977); *see also* Open Records Decision No. 109 (1975). A custodian of public records also must comply with copyright law, however, and is not required to furnish copies of records that are copyrighted. *See* ORD 180 at 3. A member of the public who wishes to make copies of copyrighted materials 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.

In summary, DART must withhold the bank account number we have marked under section 552.136 of the Government Code. DART must release the remaining information but may only release copyrighted information in accordance with copyright law.

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

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 451451

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Gary Coles  
Senior Vice President  
MV Transportation, Inc.  
4620 Westamerica Drive  
Fairfield, California 94534  
(w/o enclosures)