



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 30, 2012

Mr. Damon C. Derrick
General Counsel
Stephen F. Austin State University
P.O. Box 13065, SFA Station
Nacogdoches, Texas 75962-3065

OR2012-06188

Dear Mr. Derrick:

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# 452155.

Stephen F. Austin State University (the "university") received a request for a copy of the winning proposal for RFP# CAMPUS-PHOTO-12. Although you raise no exceptions to disclosure of the submitted information, you believe release of this information may implicate the proprietary interests of FJ Gaylor Photography, Inc. Accordingly, you provide documentation showing you have notified FJ Gaylor Photography, Inc. of the request and its right to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

We note that 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, this office has not received comments from FJ Gaylor Photography, Inc. explaining why its information should not be released. Therefore, we have no basis to conclude FJ Gaylor Photography, Inc. has any protected proprietary interests in its 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. Accordingly, the university may not withhold the submitted information based upon the proprietary interests of FJ Gaylor Photography, Inc. Although you indicate that the submitted information may be protected under federal copyright laws, upon careful review of the submitted information, we find no evidence of copyright protection. Thus, as no exceptions to disclosure have been raised, the university 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,



Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/som

Ref: ID# 452155

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Joseph Gaylor
President
FJ GAYLOR Photography, Inc.
110 Forest Hill Road
Feeding Hills, Massachusetts 01030
(w/o enclosures)