



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 29, 2012

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

OR2012-13636

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# 464101.

Stephen F. Austin State University (the "university") received a request for certain information pertaining to request for proposals #GIVING-WEB-12. Although the university takes no position regarding whether the submitted information is excepted from disclosure, you state release of the requested information may implicate the proprietary interests of third parties. Accordingly, you provide documentation showing you have notified the third parties of the request and their right to submit arguments to this office.<sup>1</sup> 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 an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. See Gov't Code § 552.305(d)(2)(B). As of the date of

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<sup>1</sup>The notified third parties are: Point A Media, Inc.; Encore Multimedia; In10sity Interactive, LLC; Alesce, Inc. d/b/a Archetype 5; and Aha Communications.

this ruling, we have not received comments from any of the third parties. Thus, we have no basis to conclude any of the third parties have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 any of the submitted information on the basis of any proprietary interest any of the third parties may have in the information.

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. As no exceptions to disclosure were raised, the submitted information must be released; however, any information subject to copyright may only be released 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 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,



Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/som

Ref: ID# 464101

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Angela Wiederhold  
Point A Media, Inc.  
2908 Westward Drive  
Nacogdoches, Texas 75964  
(w/o enclosures)

Ms. Brenda Waskowiak  
Encore Multimedia  
208 N. Green St., Ste. 513  
Longview, Texas 75601  
(w/o enclosures)

Ms. Lisa Stinnett  
In10sity Interactive, LLC  
14488 Old Stage Road  
Lenoir City, Tennessee 37772  
(w/o enclosures)

Mr. Jason Howard  
Alesce, Inc. dba Archetype 5  
900 Pearl Street, Ste. 4  
Boulder, Colorado 80302  
(w/o enclosures)

Ms. Deborah K. Pfluger  
Aha Communications  
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