



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2012

Mr. Stephen Trautmann, Jr.  
Counsel for the Zapata County ISD  
Escamilla, Poneck & Cruz, LLP  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2012-18033

Dear Mr. Trautmann:

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# 470546.

The Zapata County Independent School District (the "district"), which you represent, received a request for vendor responses to RFP ZCISD15113011T for telecommunication services, including all bid tabulations and board notes made in making the decision on the awarded vendor. Although you take no position regarding the public availability of the submitted information, you state its release may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation demonstrating, the district notified AT&T, T-Mobile USA, Inc. ("T-Mobile"), and Sprint Communications Company, L.P. ("Sprint") of the request for information and of their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception 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, AT&T, T-Mobile, and Sprint have not submitted comments to this office explaining why their submitted information should not be released. Therefore, we have no basis to conclude that AT&T, T-Mobile, and Sprint have a protected proprietary interest 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. Accordingly, the district may not withhold any portion of the submitted information on the basis of any proprietary interest AT&T, T-Mobile, or Sprint may have in the information.

We note some of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136(b) provides, “[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.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Thus, the district must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

We note some of the materials at issue are 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.

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

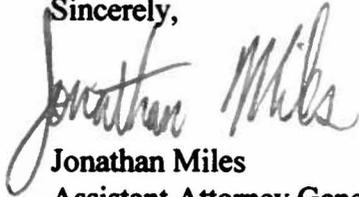
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>1</sup>The 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).

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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/bhf

Ref: ID# 470546

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Karen Kezele  
Proposal Manager  
Spring Communications Company  
12502 Sunrise Valley Drive  
Reston, Virginia 20196  
(w/o enclosures)

Mr. Rolando Hernandez  
T-Mobile  
Suite 300  
3801 South Capitol of Texas Highway  
Austin, Texas 78704  
(w/o enclosures)

Ms. Connie Blake  
Account Manager  
AT&T  
5711 McPherson, Suite 204  
Laredo, Texas 78041  
(w/o enclosures)