



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 15, 2012

Mr. W. Montgomery Meitler  
Assistant Counsel  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701

OR2012-18424

Dear Mr. Meitler:

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# 471706 (TEA PIR# 18223).

The Texas Education Agency ("TEA") received a request for the proposals submitted to TEA in response to a request for quotes for wireless telephone and data service and the composite scores of all wireless providers evaluated. You state some information has been released to the requestor. Although you take no position as to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of AT&T, Sprint Nextel, and Verizon Wireless. Thus, pursuant to section 552.305 of the Government Code, you state you notified these interested third parties of the request and of their right to submit arguments to this office as to why their information should not be released. Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to 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.

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 this letter, we have not received arguments from AT&T, Sprint Nextel, or Verizon Wireless.

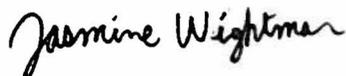
Thus, the third parties have failed to demonstrate they have protected proprietary interests in any of the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual 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, TEA may not withhold the submitted information on the basis of any proprietary interests the third parties may have in the information.

We note some of the submitted information is 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 have been raised, the submitted information must be released, but any information that is protected by 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,



Jasmine D. Wightman  
Assistant Attorney General  
Open Records Division

JDW/dls

Ref: ID# 471706

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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