



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2014

Ms. Lynn Rossi Scott
Counsel for the Burleson Independent School District
Brackett & Ellis, P.C.
100 Main Street
Fort Worth, Texas 76102-3090

OR2014-16771

Dear Ms. Scott:

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# 536842.

The Burleson Independent School District (the "district"), which you represent, received a request for a copy of each proposal submitted in response to the Student Transportation Services CSP by Goldstar, All Aboard, and First Student. Although we understand you to take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties.¹ Accordingly, you state, and provide documentation showing, you notified All Aboard Transportation, First Student, Inc., and GoldStar Transit, Inc. of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *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.

¹Although you raise sections 552.101, 552.104, 552.105, 552.110, 552.111, 552.113, 552.128, 552.131, and 552.139 of the Government Code, you provide no arguments in support of these exceptions. Accordingly, we understand you to no longer assert these sections. *See* Gov't Code §§ 552.301, .302.

Initially, 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, we have not received comments from any of the third parties explaining why the information should not be released. Therefore, we have no basis to conclude the third parties have protected proprietary interests 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 of the information at issue on the basis of any proprietary interest any of the third parties may have in it.

Section 552.136 of the Government Code provides in part that “[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.”² Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for purposes of section 552.136. We have marked insurance policy numbers that are subject to section 552.136 of the Government Code. Accordingly, the district must withhold the information we have marked under section 552.136 of the Government Code.

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.

In summary, the district must withhold the information we have marked under section 552.136 of the Government Code. The district must release the remaining submitted information in accordance with any applicable 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.

²The 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/ac

Ref: ID# 536842

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Ralph Williams
All Aboard Transportation
P.O. Box 17
Tom Bean, Texas 75489
(w/o enclosures)

Mr. Fred Smith
First Student, Inc.
128 Limoges Court
Maumelle, Arkansas 72113
(w/o enclosures)

Mr. Richard Templeton
GoldStar Transit
315 South Ridge Circle
Georgetown, Texas 78628
(w/o enclosures)