



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 9, 2016

Ms. Alaina Smith
Assistant General Counsel
Garland Independent School District
501 South Jupiter Road
Garland, Texas 75042

OR2016-23806A

Dear Ms. Smith:

This office issued two rulings to the Garland Independent School District (the "district") on October 24, 2016, and November 1, 2016. We have examined these rulings and determined we will correct Open Records Letter No. 2016-23806 (2016), which was issued on October 24, 2016, and we will withdraw the second ruling issued on November 1, 2016. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). Consequently, this decision serves as the correct ruling and is a substitute for both of the previously-issued decisions. Your request was assigned ID# 631794.

The district received a request for information related to the winning bidders of a specified bid. You state you have released some information to the requestor. Although you do not take any position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of third parties. Accordingly, pursuant to section 552.305 of the Government Code, you indicate you notified Red Gold LLC; ES Foods; Foster Poultry Farms; Nardone Bros. Baking Co.; Advance Pierre Foods; and McCain Foods USA, 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.

Initially, we note the requestor only seeks information pertaining to the winning bidders of a specified bid. We note the submitted information contains information beyond this information. Accordingly, the submitted information that does not pertain to the winning bidders, which we have marked, is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the district is not required to release such information in response to this request.

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 third party explaining why its submitted information should not be released. Therefore, we have no basis to conclude the third parties have protected proprietary interests in the 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. Consequently, the district may not withhold any of the submitted responsive information on the basis of any proprietary interests these third parties may have in the information.

Section 552.136 of the Government Code 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."¹ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Upon review, we find the district must withhold the insurance policy numbers in the submitted responsive information under section 552.136 of the Government Code.

We note some of the remaining information 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.

¹The 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).

In summary, the district must withhold the insurance policy numbers in the responsive information under section 552.136 of the Government Code. The district must release the remaining responsive information; however, any information 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.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,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/akg

Ref: ID# 631794

c: Requestor

6 Third Parties