



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 22, 2015

Mr. Hector M. Benavides
Counsel for Northside Independent School District
Walsh, Anderson, Gallegos, Green and Treviño, PC
P.O. Box 460606
San Antonio, Texas 78246

OR2015-07715

Dear Mr. Benavides:

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# 560940.

The Northside Independent School District (the "district"), which you represent, received two requests from different requestors for all bid proposals submitted for a specified RFP. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Level (3) Communications; AT&T; Time Warner Cable-Business; Windstream; and FPL FiberNet, LLC. Accordingly, you state, and provide documentation showing, you notified the interested third parties of the request and their right to submit arguments to this office. *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 considered 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 ruling, we have not received comments from any of the interested third parties. Thus, we have no basis to conclude any of the interested third parties has a protected proprietary interest in 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 district may not withhold any of the submitted information on the basis of any proprietary interest any of the interested third parties may have in the information.

Section 552.136(b) 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 concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, the district must withhold the insurance policy numbers in the submitted information under section 552.136 of the Government Code.

We note some of the remaining information appears to 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 insurance policy numbers in the submitted information under section 552.136 of the Government Code. The district must release the remaining information; 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.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

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).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 560940

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Ms. Katy Swanson
Account Manager
AT&T
1010 North Saint Mary's Street, Room 847
San Antonio, Texas 78215
(w/o enclosures)

Mr. Michael Delgado
Major Account Executive
Time Warner Cable-Business Class
1900 Blue Crest Lane
San Antonio, Texas 78247
(w/o enclosures)

Mr. Jason Robles
Account Executive III
Windstream
14100 San Pedro Avenue, Suite 500
San Antonio, Texas 78232
(w/o enclosures)

Ms. Angela Coconato
Enterprise Sales Manager
FPL FiberNet, LLC
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Irving, Texas 75063
(w/o enclosures)