



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 21, 2017

Ms. Maria Miller
Legal Assistant
Dallas County Community College District
1601 South Lamar Street, Suite 208
Dallas, Texas 75215-1816

OR2017-18970

Dear Ms. Miller:

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# 672308.

The Dallas County Community College District (the "district") received a request for information pertaining to request for proposals 12262, Applicant Tracking System. Although you 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. Accordingly, you state, and provide documentation showing, you notified Frontline Technologies Group; GovernmentJobs.com; Hirezon Corporation; iClms, Inc.; Image Trend; Oracle America, Inc.; PeopleAdmin, Inc. ("PeopleAdmin"); and TeacherMatch 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 received comments from PeopleAdmin.¹ We have considered the submitted arguments and reviewed the submitted information.

¹PeopleAdmin explains it now owns TeacherMatch and has submitted arguments against disclosure of its subsidiary.

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 remaining third parties explaining why their information should not be released. Therefore, we have no basis to conclude any of the remaining third parties has 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 of the information at issue on the basis of any proprietary interest the remaining third parties may have in it.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Id.* at 841. PeopleAdmin indicates it has competitors. In addition, PeopleAdmin states release of the information at issue would give advantage to a competitor. After review of the information at issue and consideration of the arguments, we find PeopleAdmin has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the district may withhold the information we have marked under section 552.104(a) of the Government Code.²

We note some of the remaining information is subject to section 552.136 of the Government Code.³ Section 552.136 states that "[n]otwithstanding any other provision of this chapter, 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. This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, we find the district must withhold the submitted insurance policy numbers under section 552.136 of the Government Code.

We note some of the materials 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

²As our ruling on this information is dispositive, we need not address PeopleAdmin's remaining argument against disclosure.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

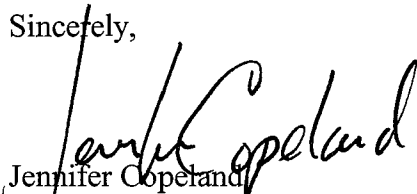
must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district may withhold the information we have marked under section 552.104(a) of the Government Code. The district must withhold the submitted insurance policy numbers under section 552.136 of the Government Code. The remaining information must be released, but 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,


Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 672308

Enc. Submitted documents

c: Requestor
(w/o enclosures)

8 Third Parties
(w/o enclosures)