



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2009

Ms. Imelda Martinez  
In-House Counsel  
Corpus Christi Independent School District  
P.O. Box 110  
Corpus Christi, Texas 78403-0110

OR2009-05925

Dear Ms. Martinez:

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# 341697.

The Corpus Christi Independent School District (the "district") received a request for any and all documents for request for competitive sealed proposal FY09-P-0011. You do not take a position as to whether the submitted information is excepted under the Act. However, you state that release of this information may implicate the proprietary interests of Grande Communications Networks, Inc. ("Grande") and SBC Global Services, Inc. ("SBC").<sup>1</sup> Accordingly, you inform us, and provide documentation showing, that you notified Grande and SBC of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

Initially, you note that the proposals contain information which the vendors have indicated is confidential or proprietary. However, information is not made confidential under the Act

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<sup>1</sup>We note the requestor has a right of access to her own company's proposal.

simply because the party submitting the information anticipates or requests that it be kept confidential. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976), cert. denied 430 U.S. 931 (1977); *see also* Open Records Decision Nos. 479 (1987) (information is not confidential under Public Information Act simply because party submitting it anticipates or requests that it be kept confidential), 203 (1978) (mere expectation of confidentiality by individual supplying information does not properly invoke section 552.110). Consequently, the submitted information may not be withheld unless it falls within an exception to disclosure.

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 requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, neither Grande nor SBC has submitted to this office any reasons explaining why the submitted information should not be released. Thus, we have no basis to conclude that the release of any portion of the submitted information relating to Grande or SBC would implicate their proprietary interests, and the district may not withhold any portion of the submitted information on their behalf. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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).

We note that the submitted information contains insurance policy numbers. Section 552.136 of the Government Code 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."<sup>2</sup> Gov't Code § 552.136. Accordingly, the district must withhold the insurance policy numbers we have marked under section 552.136.

We further note that 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. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* 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. *See* Open Records Decision No. 550 (1990).

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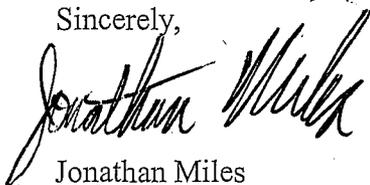
<sup>2</sup>This office will raise a mandatory exception like section 552.136 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the marked insurance policy numbers must be withheld under section 552.136 of the Government Code. The remaining information must be released, but any copyrighted information 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 at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "Jonathan Miles".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 341697

Enc. Submitted documents

c: Requestor  
(w/o enclosures)