



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2010

Mr. Damon C. Derrick
General Counsel
Stephen F. Austin State University
P.O. Box 13065, SFA Station
Nacogdoches, Texas 75962-3065

OR2010-18173

Dear Mr. Derrick:

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# 401894.

Stephen F. Austin State University (the "university") received a request for all proposals and the contract related to RFP # TVPROGSRV-FY11. You take no position on the public availability of the requested information. You indicate, however, that release of the submitted information may implicate the proprietary interests of Cebridge Acquisitions, L.P. d/b/a Suddenlink Communications ("Suddenlink"), Institutional Network Communications, L.L.C. ("Institutional Network"), and Master Video Systems, Inc. ("Master Video"). You notified these third parties of this request for information 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); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 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.

We note an interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, Suddenlink, Institutional Network, and Master Video have not submitted comments to this office explaining why any

portion of their submitted information should not be released to the requestor. Therefore, we have no basis to conclude that the release of any portion of the submitted information relating to these companies would implicate their proprietary interests. *See id.* § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 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). Accordingly, we conclude that the university may not withhold any portion of Suddenlink, Institutional Network, and Master Video's information on the basis of any proprietary interests that they may have in the information.

The university notes that some of the submitted 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. 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). As no exceptions against disclosure have been raised, the submitted information must be released in accordance with copyright law to the extent it applies.

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, 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, toll free at (888) 672-6787.

Sincerely,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/em

Ref: ID# 401894

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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