



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 23, 2014

Ms. Michele Freeland  
Legal Assistant  
Office of General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2014-08926

Dear Ms. Freeland:

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# 525005 (DPS PIR # 14-1113).

The Texas Department of Public Safety (the "department") received a request for information pertaining to the award of ITB 405-ADM-14-B41196 to PSI Services, LLC, including the pertinent award, evaluation documentation, including all scoring and evaluator sheets related to the ITB, and the proposals submitted by other vendors. 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 the interested third parties, Pearson VUE and Silotech Group, 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 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *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 you have submitted only the proposals for Pearson VUE and Silotech Group, Inc. However, you have not submitted information responsive to the remaining portions of the request. To the extent such information existed and was maintained by the department on the date the department received the request for information, we assume it has

been released. If the department has not released such information, it must do so at this time. *See* Gov't Code § 552.301(a); *see also* Open Records Decision No. 664 (2000) (if governmental body determines no exceptions apply to requested information, it must release information as soon as possible).

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 either of the interested third parties explaining why their information should not be released. Therefore, we have no basis to conclude either of the third parties have 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 the requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret). Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest these third parties may have in it.

We note the submitted information contains bank account and routing 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." Gov't Code § 552.136. The department must, therefore, withhold the bank account and routing numbers we have marked under section 552.136.

In addition, some of the submitted 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 department must withhold the bank account and routing numbers we have marked under section 552.136 of the Government Code. The department must release the remaining information in accordance with any applicable copyright law.<sup>1</sup>

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<sup>1</sup>We note the information being released contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

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](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,



Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/ac

Ref: ID# 525005

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Arthur Valentine  
Person Vue  
3 Bala Plaza Way, Suite 300  
Bala Cynwyd, Pennsylvania 19004  
(w/o enclosures)

Ms. Tiffany Tremont  
Silotech Group, Inc.  
10100 Reunion Place, Suite 250  
San Antonio, Texas 78216  
(w/o enclosures)