



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 6, 2014

Ms. Ramona Soto
Attorney
Fort Worth Independent School District
100 North University Drive, Suite SW 172
Fort Worth, Texas 76107

OR2014-20225

Dear Ms. Soto:

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# 542265.

The Fort Worth Independent School District (the "district") received a request for proposals submitted in response to request for proposals 14-010 Web Based Special Education Data, except for the proposal submitted by Excent Corporation. 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 Computer Automation Systems, Inc. ("CAS"); esped.com, Inc. ("esped"); Edupoint Educational Systems, L.L.C. ("Edupoint"); and Public Consulting Group ("PCG"). Accordingly, the district notified these companies 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 arguments and the submitted information.

Initially, we note CAS's, Edupoint's, and PCG's submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-13859 (2014). In that ruling, we concluded the district must (1) withhold

Edupoint's pricing information under section 552.110(b) of the Government Code; (2) withhold the insurance policy numbers in the submitted information under section 552.136 of the Government Code; and (3) must release the remaining information; however, any information subject to copyright may only be released in accordance with copyright law. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the district must continue to rely on Open Records Letter No. 2014-13859 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we note esped's information was not at issue in Open Records Letter No. 2014-13859, and, thus, is not subject to that ruling.

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 arguments from esped. Thus, esped has not demonstrated it has a protected proprietary interest in any of the remaining 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 district may not withhold the remaining information on the basis of any proprietary interest esped may have in it.

We note some of the remaining information is subject to section 552.136 of the Government Code.¹ Section 552.136(b) 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." Gov't Code § 552.136(b). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining "access device"). Accordingly, the district must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code.

In summary, the district must continue to rely on Open Records Letter No. 2014-13859 as a previous determination and withhold or release the submitted information in accordance with that ruling. The district must withhold the insurance policy numbers in the remaining

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

information under section 552.136 of the Government Code. The district must release the remaining information.

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 Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 542265

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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