



January 27, 2015

Ms. Ramona Soto
Office of Legal Services
Fort Worth Independent School District
100 North University Drive, Suite SW 172
Fort Worth, Texas 76107

OR2015-01559

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# 552048.

The Fort Worth Independent School District (the "district") received a request for all proposals and pricings submitted for a specified request for proposals. Although the district takes no position as to whether the submitted information is excepted under the Act, it states release of the submitted information may implicate the proprietary interests of AT&T; INX, L.L.C.; Jive Communications, Inc.; Masergy Communications Inc. f/k/a Broadcore ("Masergy"); and PanTerra Networks.¹ Accordingly, the district states, and provides documentation showing, it notified the third parties 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 Masergy. We have reviewed the submitted information and the submitted arguments.

¹We note the district did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because third party interests are at stake, we will consider whether the submitted information must be withheld under the Act based on third party interests. *See id.* §§ 552.007, .302, .352.

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 the submitted 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the district may not withhold the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

Next, we note Masergy objects to disclosure of information the district has not submitted to this office for review. This ruling does not address information that was not submitted by the district and is limited to the information submitted as responsive by the district.² *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested).

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."³ *Id.* § 552.136. This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, the district must withhold the insurance policy numbers we have marked 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 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.

²As our ruling is dispositive, we need not address Masergy's arguments against disclosure of the information at issue.

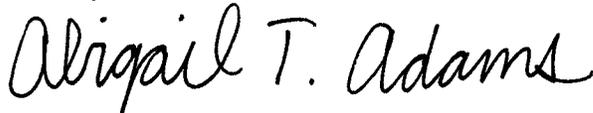
³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the district must withhold the information we have marked under section 552.136 of the Government Code. The district must release the remaining submitted information; however, any information that is subject to copyright may be released only 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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 552048

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. K. Wayne Griffin
Masergy Communications, Inc.
2740 N. Dallas Parkway, Suite 260
Plano, Texas 75093
(w/o enclosures)

Mr. Fred Zamora
Jive Communications
1275 West 1600 North, Suite 100
Orem, Utah 84057
(w/o enclosures)

Mr. Pete Davis
PanTerra Networks
4655 Old Ironside Drive, Suite 300
Santa Clara, California 95054
(w/o enclosures)

Mr. Luke Taylor
INX, L.L.C.
1955 Lakeway Drive, Suite 220
Lewisville, Texas 75057
(w/o enclosures)

Mr. Robert Adams
AT&T
311 South Akard Street, 8th Floor
Dallas, Texas 75202
(w/o enclosures)