



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 10, 2015

Ms. Sarah Parker
Associate General Counsel
Texas Department of Transportation
125 East 11th Street
Austin, Texas 78701-2483

OR2015-06927

Dear Ms. Parker:

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# 559606.

The Texas Department of Transportation (the "department") received a request for a copy of each contract to provide good/services to the department that was awarded under the Cooperative Contracts program and valued at two hundred and fifty thousand dollars or greater.¹ Although the department 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 multiple third parties. Accordingly, the department states, and provides documentation showing, it then notified the third parties of the request for information and of their rights to submit arguments to this office as to why the submitted

¹We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

information should not be released.² *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 reviewed the submitted information.

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 third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the third parties have protected proprietary interests 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 department may not withhold the submitted information on the basis of any proprietary interests the third parties may have in the information.

Section 552.136(b) of the Government Code provides, "[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 Gov't Code § 552.136(b); *see also id.* § 552.136(a) (defining "access device"). Additionally, this office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Thus, the department must withhold the insurance policy numbers and account numbers in the submitted information under section 552.136 of the Government Code. As no exceptions to disclosure have been raised, the remaining information must be released.

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.

²The third parties are: Data Transfer Solutions, LLC, Neos Consulting Group, LLC, INX, LLC, ESG Consulting, Inc., Rhyon Technology Services, LLC, Gartner Inc., Agile Assets, Inc., Presidio Networked Solutions Group, LLC, Technology Consortium, LLC, Askreply Inc., Cooper Consulting, Xerox Corporation, Austin Ribbon & Computer Supplies, Inc., and Dimension Data.

³The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 559606

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Data Transfer Solutions, LLC
Suite 200
3680 Avalon Park East Blvd.
Orlando, Florida 32828-9373
(w/o enclosures)

Neos Consulting Group, LLC
P.O. Box 12986
Austin, Texas 78711-2986
(w/o enclosures)

Inx, LLC
1955 Lakeway Drive, Suite 220
Lewisville, Texas 75057-6448
(w/o enclosures)

ESG Consulting, Inc.
2880 Lakeside Drive, Suite 343
Santa Clara, California 95054-2826
(w/o enclosures)

Gartner, Inc.
106 East Sixth Street, Suite 900
Austin, Texas 78701
(w/o enclosures)

Gartner, Inc.
56 Top Gallant Road
Stamford, Connecticut 06902-7747
(w/o enclosures)

Agile Assets, Inc.
3001 Bee Caves Road, Suite 200
Austin, Texas 78746
(w/o enclosures)

AskReply, Inc.
d/b/a B2G Now
3225 N. Central Ave., Ste. 120
Phoenix, Arizona 85012
(w/o enclosures)

AskReply, Inc
5025 N. Central Ave., Ste. 494
Phoenix, Arizona 85012
(w/o enclosures)

Cooper Consulting
601 Farley Drive
Austin, Texas 78753
(w/o enclosures)

Xerox Corporation
Suite 300
6836 Austin Center Boulevard
Austin, Texas 78731
(w/o enclosures)

Dimension Data
Suite 340
11730 Plaza America Drive
Reston, Virginia 20190
(w/o enclosures)

Rhyan Technology Services, LLC
901 South Mopac Expressway, Suite 300
Austin, Texas 78746-5776
(w/o enclosures)

Presidio Networked Solutions Grp., LLC
Building B, Suite 130
7600 North Capital of Texas Highway
Austin, Texas 78731
(w/o enclosures)

Presidio Networked Solutions Grp., LLC
1955 Lakeway Drive, Suite 220
Lewisville, Texas 75057
(w/o enclosures)

Technology Consortium, L.L.C.
7000 North Mopac Expressway, Ste. 310
Austin, Texas 78731-3261
(w/o enclosures)

Austin Ribbon & Computer Supplies, Inc.
Suite 202
9211 Waterford Centre Boulevard
Austin, Texas 78758
(w/o enclosures)