



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2008

Ms. Michelle Rangel  
Assistant County Attorney  
Fort Bend County Attorney's Office  
301 Jackson Street, Suite 728  
Richmond, Texas 77469-3108

OR2008-09429

Dear Ms. Rangel:

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# 315414.

The Fort Bend County Attorney's Office (the "county") received a request for "all responses to RFP 08-029 submitted by all bidders and the bid tabulation sheet." You claim that a portion of the submitted information is excepted from disclosure under section 552.136 of the Government Code. In addition, you state that the release of the submitted information may implicate the proprietary interests of Texas Imaging Company, SC Data, Manatron, Inc., iDocket.com LLC, ACS Government Records Service, and Tyler Technologies, (collectively, "the bidders"). Accordingly, you have notified the bidders of the request 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) (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) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Initially, we note that you have only submitted the responses to RFP 08-029. Therefore, to the extent that a responsive bid tabulation sheet exists, we assume that it has been released.

If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we address your claim that the submitted information contains insurance policy numbers that are excluded from disclosure under section 552.136 of the Government Code. Section 552.136 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(b). We agree that insurance policy numbers are access device numbers excepted from disclosure under section 552.136. However, because the purpose of section 552.136 is to protect the privacy interest of the owner of the access device number, the requestor has a right of access to her company's insurance policy numbers. Accordingly, the county must withhold the insurance policy numbers of the companies other than the requestor's company, which we have marked, under section 552.136 of the Government Code.

Next, we note that 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 id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the bidders explaining why the submitted information should not be released. Therefore, we have no basis to conclude that any of the bidders 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, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Accordingly, the county may not withhold any portion of the remaining information based upon the proprietary interests of the bidders.

We note that 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. 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).

In summary, the county must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The remaining submitted information must be released, but only in accordance with copyright law.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3). If the governmental body does not file suit over this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Laura E. Ream  
Assistant Attorney General  
Open Records Division

LER/mcf

Ref: ID# 315414

Enc. Submitted documents

c: Ms. Ishele Graves  
Neubus  
11525A Stonehollow Drive, Suite 170  
Austin, Texas 78758  
(w/o enclosures)

Texas Imaging Company  
Attn: Mr. Robert M. Rogers  
121 Lorine Street  
Keller, Texas 76248  
(w/o enclosures)

SC Data  
Attn: Ms. Diane Merritt  
2200 New Bern Avenue  
Raleigh, North Carolina 27610  
(w/o enclosures)

Manatron, Inc.  
Attn: Ms. Krista Inosencio  
510 East Milham Avenue  
Portage, Michigan 49001  
(w/o enclosures)

iDocket.com, L.L.C.  
Attn: Renslar R. "Renny" Keagle  
6301-A Airport Road  
El Paso, Texas 79925  
(w/o enclosures)

ACS Government Records Service  
Attn: Mr. Reed Roach  
2800 West Mockingbird Lane  
Dallas, Texas 75235  
(w/o enclosures)

Tyler Technologies  
Attn: Ms. Cheryl Letchworth  
11412 Denver West Parkway, Suite 115  
Lakewood, Colorado 80401  
(w/o enclosures)