



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 20, 2008

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County, Texas  
301 Jackson St., Suite 728  
Richmond, Texas 77469-3108

OR2008-15993

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# 328424.

Fort Bend County (the "county") received a request for information related to RFP No. 08-081. You claim that a portion of the submitted information is excepted from disclosure under section 552.136 of the Government Code. You also indicate that release of the submitted information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, that you have notified BI Behavioral Interventions, Inc.; iSECUREtrac; Satellite Tracking of People; and G4S Justice Systems, Inc. of the request and of their opportunity to submit comments to this office as to why the submitted information should not be released to the requestor.<sup>1</sup> See Gov't Code § 552.305(d); *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 the applicability of exception to disclose under Act in certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Initially, 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.

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<sup>1</sup>We note that the requestor has a right of access to his company's own proposal.

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. We agree that insurance policy numbers are access device numbers excepted from disclosure under section 552.136. Accordingly, the county must withhold the insurance policy numbers 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 a governmental body’s notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, none of the interested third parties have submitted comments explaining why any portion of the submitted information should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information relating to these companies would implicate their proprietary interests, and the county may not withhold any portion of the submitted information on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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).

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,



Paige Savoie  
Assistant Attorney General  
Open Records Division

PS/ma

Ref: ID# 328424

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Michael E. Hankard  
BI Behavioral Interventions  
6400 Lookout Road  
Boulder, Colorado 80301  
(w/o enclosures)

Mr: Leo Carson  
G4S Justice Services, Inc.  
30201 Aventura  
Rancho Santa Margarita, California 92688  
(w/o enclosures)

Mr. Robert Bierman  
iSECUREtrac  
5078 South 11<sup>th</sup> Street  
Omaha, Nebraska 68137  
(w/o enclosures)

Ms. Lisa Tauser  
Satellite Tracking of People  
1212 North Post Oak Road #100  
Houston, Texas 77055  
(w/o enclosures)