



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 11, 2008

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County Attorney's Office  
301 Jackson Street Suite 728  
Richmond, Texas 77469-3108

OR2008-16928

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# 329721.

The Fort Bend County Purchasing Office (the "county") received a request for the responses to requests for proposals for a global positioning satellite system and an electronic monitoring system and service. You claim that some of the requested information is excepted from disclosure under section 552.136 of the Government Code. You take no position on the public availability of the rest of the requested information. You believe, however, that the remaining information may implicate the proprietary interests of Biometric Corporation; G4S Justice Services, Inc.; isecuretrac; Pro-Tech Monitoring, Inc; Satellite Tracking of People; and Sentinel Offender Services. You notified the interested parties of this request for information and of their right to submit arguments to this office as to why the information should not be released.<sup>1</sup> We have considered the exception you claim and reviewed the information you submitted.

We first note that some of the submitted information does not involve either of the related requests for proposals and therefore is not responsive to this request for information. This decision does not address the public information of the non-responsive information, which we have marked, and that information need not be released.

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<sup>1</sup>See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

We next note that some of the responsive information was the subject of previous requests, as a result of which this office issued Open Records Letter Nos. 2008-15395 (2008), 2008-15993 (2008), and 2008-16036 (2008). You do not indicate that there has been any change in the law, facts, and circumstances on which the previous rulings are based. Therefore, to the extent that the responsive information is encompassed by Open Records Letter Nos. 2008-15395, 2008-15993, and 2008-16036, the county must dispose of the information in accordance with the previous rulings. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)). To the extent that the responsive information is not encompassed by the previous rulings, we will determine whether the county must withhold any of the information under section 552.136 of the Government Code or to protect the third parties' interests.

An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from any of the third parties that the county notified. Thus, none of the interested parties has demonstrated that any of the responsive information is proprietary for the purposes of the Act. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999). Therefore, to the extent that the responsive information is not encompassed by our previous rulings, the county may not withhold any of the information on the basis of any proprietary interest that any of the interested parties may have in the information.

Section 552.136 of the Government Code states that "[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); *see id.* § 552.136(a) (defining "access device"). The county must withhold the insurance policy numbers that we have marked under section 552.136.

Lastly, we note that some of the responsive information appears to be protected by copyright. A governmental body must allow inspection of copyrighted information unless an exception to disclosure applies to the information. *See* Attorney General Opinion JM-672 (1987). An officer for public information also must comply with copyright law, however, and is not required to furnish copies of copyrighted information. *Id.* A member of the public who wishes to make copies of copyrighted information 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 at 8-9 (1990).

In summary: (1) to the extent that the responsive information is encompassed by Open Records Letter Nos. 2008-15395, 2008-15993, and 2008-16036, the county must dispose of

the information in accordance with the previous rulings; and (2) the county must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The rest of the responsive information must be released. Any information that is protected by copyright must be released 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).

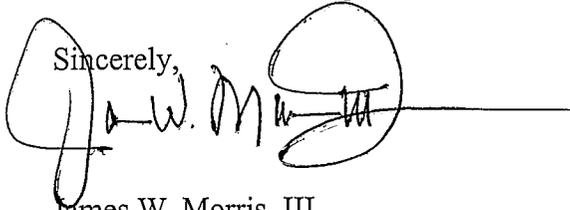
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", is written over a horizontal line. The signature is stylized and includes a large circular flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ma

Ref: ID# 329721

Enc: Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Rose Carter  
Biometric Corporation  
15443 Knoll Trail Suite 230  
Dallas, Texas 75248  
(w/o enclosures)

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

Mr. Robert Bierman  
isecuretrac  
5078 South 111<sup>th</sup> Street  
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(w/o enclosures)

Mr. Jason Abernathy  
Pro Tech Monitoring, Inc.  
2549 Success Drive  
Odessa, Florida 33556  
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Ms. Lisa Tauser  
Satellite Tracking of People  
1212 North Post Oak Road #100  
Houston, Texas 77055  
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