



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2009

Ms. Caroline E. Cho
Assistant County Attorney
Williamson County Courthouse
405 Martin Luther King, #7
Georgetown, Texas 78626

OR2009-01082

Dear Ms. Cho:

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# 333452.

Williamson County (the "county") received two requests from different requestors for all proposals submitted in response to RFP number 09WCPA113. The first requestor also requests the individual evaluators' scoring sheet for each proposal evaluated as well as the cumulative point scoring for all evaluators, proposing vendors, and for all aspects of the RFP that resulted in the award ranking. Although you raise no exception to disclosure of the requested information on behalf of the county, you state that the county believes the information may involve the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the county has notified the interested third parties of the request and of their right to submit arguments to this office explaining why this information should not be released.¹ *See* Gov't Code § 552.305 (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 in certain circumstances). We have reviewed the submitted information.

Initially, we note you have not submitted any information responsive to the individual evaluators' scoring sheet for each proposal evaluated or the cumulative point scoring for all evaluators, proposing vendors, and for all aspects of the RFP that resulted in the award ranking. Therefore, to the extent this information existed when the present request was received, we assume it has been released. If such information has not been released, then it

¹The notified third parties are: Biometric Corporation; B.I. Incorporated; Victim Safety First; Secure Alert; Sentinel Offender Services LLC; Satellite Tracking of People LLC; G4S Justice Services, Inc.; and iSECUREtrac Corporation.

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).

We also note that a portion of the submitted information, which we have marked, is not responsive to the instant request for information because it does not pertain to the specified request. The county need not release non-responsive information in response to this request and this ruling will not address that 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 third party explaining why their submitted bid proposals should not be released. Therefore, we have no basis to conclude any of the notified companies have protected proprietary interests in their 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 these companies' proposals on the basis of any proprietary interest they may have in them.

Next, we note that the submitted information contains insurance policy numbers.² Section 552.136(b) provides 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." The county must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

Finally, we note that portions of the submitted information appear 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).

²The Office of the Attorney General will raise a mandatory exception, such as section 552.136, on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the county must withhold the insurance policy numbers that we have marked under section 552.136. The remaining information must be released to the requestor 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/jb

Ref: ID# 333452

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

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

Mr. Brad Cooper
B.I. Incorporated
6400 Lookout Road
Boulder, Colorado 80301
(w/o enclosures)

Ms. Shel Fontaine
Victim Safety First
707 West 10th Street
Austin, Texas 78701
(w/o enclosures)

Mr. Christopher Anderson
Secure Alert
150 West Civic Center Drive, Suite 400
Sandy, Utah 84070
(w/o enclosures)

Mr. Alan Velasquez
Vice President
Sentinel Offender Services LLC
220 Technology Drive, Suite 200
Irvine, California 92618
(w/o enclosures)

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

Mr. Robert Bierman
Vice President, Sales & Marketing
iSECUREtrac Corporation
5078 South 111th Street
Omaha, Nebraska 68137
(w/o enclosures)

Mr. Greg Utterback
Chief Development Officer
Satellite Tracking of People, L.L.C.
1212 North Post Oak Road, Suite 100
Houston, Texas 77055
(w/o enclosures)