



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2009

Ms. Neera Chatterjee
Public Information Coordinator
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-15642

Dear Ms. Chatterjee:

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# 360493.

The University of Texas Medical Branch at Galveston (the "university") received a request for the following information related to Request for Proposal number 05-16: (1) all bids; (2) all invoices from a specified vendor or its contractors, subcontractors, or designees over a specified date range; and (3) all correspondence "regarding any renewal, renegotiation, revision, change, addition, escalation, amendment or addendum of the original proposal bid" by the same vendor and "subsequent agreements with [Correctional Managed Care]." You have redacted social security numbers of living persons under section 552.147 of the Government Code.¹ You claim that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. You also explain that the submitted information may contain third parties' proprietary information subject to exception under the Act. Accordingly, you have notified Huntsville Funeral Home, Sam Houston Memorial Funeral Home, and Carnes Funeral Home of this request for information and of their right to submit arguments to this office explaining why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

Initially, we note that you have not submitted any information responsive to item (2) of the request. Therefore, to the extent the university maintained any information responsive to this item on the date it received the request, we assume the university has already released such information. If the university has not released any such information, it must do so at this time. *See* Gov't Code § 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply, it must release information as soon as possible).

We next note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice 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, we have not received any correspondence from any of the third parties you notified. Thus, none of these third parties has demonstrated that it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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. Accordingly, the university may not withhold any of the submitted information on the basis of any proprietary interest the notified third parties may have in it.

Section 552.136(b) 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). This office has determined that insurance policy numbers are access device numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining "access device"). Therefore, the university must withhold the insurance policy numbers you have marked pursuant to section 552.136 of the Government Code.

Finally, we note that some of the remaining information at issue appears to be protected by copyright. A governmental body must allow inspection of copyrighted materials unless an exception applies to the information, but a custodian of public records must comply with copyright law and is not required to furnish copies of records that are copyrighted. *See* Attorney General Opinion JM-672 (1987). Thus, 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). As you raise no further exceptions against disclosure, the university must release the remainder of the submitted information, but must comply with copyright law in so doing.

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, toll free, at (888) 672-6787.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/rl

Ref: ID# 360493

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

c: Mr. George Whatley
Huntsville Funeral Home
1215 15th Street
Huntsville, Texas 77340
(w/o enclosures)

Mr. Larry Graves & Mr. William Smith
Sam Houston Memorial Funeral Home
1700 Normal Park
Huntsville, Texas 77340
(w/o enclosures)

Mr. Jay Carnes
Carnes Funeral Home
3100 IH-45 North
Texas City, Texas 77591
(w/o enclosures)