



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 26, 2010

Mr. Dan Junell  
Assistant General Counsel  
Teacher Retirement System of Texas  
1000 Red River Street  
Austin, Texas 78701-2698

OR2010-07674

Dear Mr. Junell:

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# 381122.

The Teacher Retirement System of Texas ("TRS") received a request for the proposals and finalist presentations submitted by two named entities in connection with a request for proposals for actuarial valuation and pension consulting services. You state that TRS has released the proposal and presentation submitted by Cavanaugh MacDonald. You claim that information in the proposal submitted by Gabriel, Roeder, Smith & Company ("Gabriel") is excepted from disclosure under section 552.136 of the Government Code. You also believe that section 552.110 of the Government Code may be applicable to information contained in Gabriel's proposal and presentation. You inform us that TRS notified Gabriel of this request for information and of its right to submit arguments to this office as to why information relating to Gabriel should not be released.<sup>1</sup> We have considered the exception you claim and reviewed the information you submitted.

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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 note that 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 the 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 Gabriel. Thus, because Gabriel has not demonstrated that any of the information at issue is proprietary for the purposes of the Act, TRS may not withhold any of the submitted information on the basis of any proprietary interest that Gabriel may have in the information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

TRS claims section 552.136 of the Government Code, which provides 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"). TRS must withhold the insurance policy numbers we have marked under section 552.136.<sup>2</sup> Although you believe that this exception may be applicable to other information contained in the submitted documents, you have not demonstrated that any of the remaining information constitutes an "access device" for the purposes of section 552.136. We therefore conclude that TRS may not withhold any of the remaining information under section 552.136.

In summary, TRS must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The rest of the submitted information must be released.<sup>3</sup>

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](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free,

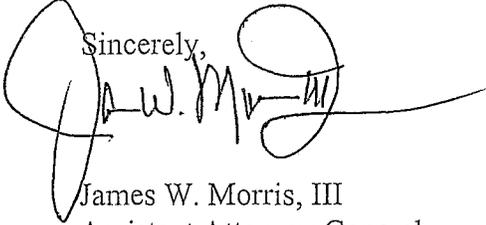
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<sup>2</sup>We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an insurance policy number under section 552.136, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note that some of the submitted information is marked as being protected by copyright law. Although a governmental body must allow inspection of copyrighted information, unless an exception to disclosure applies, an officer for public information also must comply with copyright law and is not required to furnish copies of copyrighted information. *See* Attorney General Opinion JM-672 (1987); Open Records Decision No. 550 (1990). You inform us, however, that Gabriel has waived the copyright on the materials at issue here.

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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

JWM/rl

Ref: ID# 381122

Enc: Submitted documents

cc: Requestor  
(w/o enclosures)

c: Mr. Joseph P. Newton  
Gabriel Roeder Smith & Company  
5606 North MacArthur Boulevard Suite 870  
Irving, Texas 75038-2631  
(w/o enclosures)