



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 28, 2010

Mr. Daniel Bradford
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78701

OR2010-11340

Dear Mr. Bradford:

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# 388374.

The Travis County Healthcare District (the "district") received a request for information pertaining to responses to RFP 1001-001 for Data Reporting Consulting Services. Although you take no position with respect to the public availability of the submitted information, you indicate its release may implicate the proprietary interests of Smartbridge, LLC ("Smartbridge"); Management Information Analysis; Morningside Research and Consulting, Inc. ("Morningside"); Animato Technologies Corporation ("Animato"); Collabera ("Collabera"); Summerland; and RHTWO Consulting, Inc. ("RHTWO"). Accordingly, you provide documentation showing that you notified Smartbridge, Management Information Analysis, Morningside, Animato, Collabera, and RHTWO of the request and of each company's right to submit arguments to this office as to why their proposals should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining 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 reviewed the submitted 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 the interested third parties explaining why the information at issue should not be released. Therefore, we have no basis to conclude that these companies have a protected proprietary interest in the 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). Consequently, the district may not withhold any of the submitted information on the basis of any proprietary interests these companies may have in the information.

We note portions of the submitted information are subject to section 552.136 of the Government Code.¹ Section 552.136(b) states “[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.” *Id.* § 552.136(b). This office has determined that an insurance policy number is an access device for the purposes of this exception. *See id.* § 552.136(a) (defining “access device”). The district must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

We note that some of the remaining 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. Open Records Decision No. 180 at 3 (1978). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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.

In summary, the district must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.² The remaining information must be released, but any information subject to copyright may only be released in accordance with copyright law.

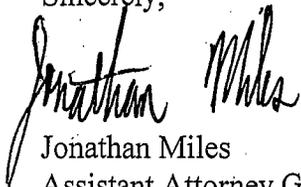
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹The Office of the Attorney General will raise a mandatory exception like 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).

²We note 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 insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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_ori.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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 388374

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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