



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2011

Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028

OR2011-14152

Dear Mr. Bentley:

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# 431358.

The University of Houston (the "university") received a request for the winning proposal, as well as the next two top ranked proposals, submitted in response to the furniture bid related to the Bay Area Business and Technology Center. Although you take no position on whether the requested information is excepted from disclosure, you state release of this information may implicate the proprietary interests of third parties.¹ Accordingly, the university notified the interested third parties of the request for information and of each company's right to submit arguments explaining why the requested information should not be released. *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.

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 requested information relating to it should be withheld from disclosure. *See* Gov't Code

¹The interested third parties are: Carroll's Discount Office Furniture Company, Inc.; Challenge Office Products, Inc.; Facility Interiors, Inc.; J. Tyler Office Furniture and Services, Inc.; Jimenez Contract Services, Ltd.; Office Design Concepts LLC; Office Furniture Innovations, LLC; and Starr Office Products, Inc.

§ 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the interested third parties explaining why their submitted information should not be released. Thus, we have no basis for concluding any portion of the submitted information constitutes the proprietary information of these companies. *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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Consequently, the university may not withhold any of the submitted information on the basis of any proprietary interests these companies may have in the information.

Section 552.136 of the Government Code provides in part 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.”² Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are “access device” numbers for purposes of section 552.136. Accordingly, the university must withhold the insurance policy numbers we have marked under section 552.136.

We note 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 (1977). 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 university must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The remaining information must be released to the requestor, but any information that is protected by 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.

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.

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

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 431358

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Carroll's Discount Office Furniture
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

Facility Interiors
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

J. Tyler Services
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

Jimenez Contract Services
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

Office Design Concepts
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

Office Furniture Innovations
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

Starr Office Products
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)

Challenge Office Products
c/o Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028
(w/o enclosures)