



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 9, 2012

Ms. Sara Hoglund  
Contract Administrator  
Collin County  
2300 Bloomdale Road  
McKinney, Texas 75071

OR2012-03634

Dear Ms. Hoglund:

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# 447498.

Collin County (the "county") received a request for the bid documents submitted by Group & Pension Administrators, Inc. ("GPA"), in response to a specified request for proposals. Although you take no position on whether the submitted information is excepted from disclosure, you state release of this information may implicate the proprietary interests of GPA. Accordingly, you notified GPA of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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 received comments from GPA. We have considered the submitted arguments and reviewed the submitted information.

GPA claims some of its information at issue is protected by section 552.110(b) of the Government Code. Section 552.110(b) excepts from disclosure "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained." Gov't Code § 552.110(b). Section 552.110(b) requires a specific factual or

evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the requested information. Open Records Decision No. 661 at 5-6 (1999) (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm). Upon review, we find GPA has established release of its pricing information and some of its customer information would cause it substantial competitive harm. Therefore, the county must withhold this information, which we have marked, under section 552.110(b) of the Government Code. However, because GPA has published its remaining customer information on its website, the company has failed to demonstrate how release of this information would cause it substantial competitive harm. Furthermore, we find GPA has not demonstrated how release of its remaining information at issue would cause it substantial competitive harm, and has provided no specific factual or evidentiary showing to support such assertions. *See* Open Records Decision Nos. 661 (for information to be withheld under commercial or financial information prong of section 552.110, business must show by specific factual evidence that substantial competitive injury would result from release of particular information at issue), 509 at 5 (1988) (because bid specifications and circumstances would change for future contracts, assertion that release of bid proposal might give competitor unfair advantage on future contracts is too speculative). Consequently, the county may not withhold any of GPA's remaining information at issue under section 552.110(b) of the Government Code.

Section 552.136 of the Government Code provides “[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.” 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 county must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. However, GPA has failed to demonstrate how any of the remaining information it seeks to withhold constitutes access device numbers used to obtain money, goods, services, or any item of value, or used to initiate the transfer of funds. *See id.* §§ 552.136(a), 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, the county may not withhold any of the remaining information at issue under section 552.136 of the Government Code.

We note that portions of the remaining information at issue are 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 county must withhold the information we have marked under sections 552.110(b) and 552.136 of the Government Code. The county must release the remaining information at issue; however, 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.

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, 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,



Sean Nottingham  
Assistant Attorney General  
Open Records Division

SN/akg

Ref: ID# 447498

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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