



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

August 2, 2012

Ms. Ashley D. Fourt  
Assistant District Attorney  
Tarrant County  
401 West Belknap, 9<sup>TH</sup> Floor  
Fort Worth, Texas 79196-0201

OR2012-12097

Dear Ms. Fourt:

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# 460993.

The Tarrant County Purchasing Department (the "department") received a request for all the records related to RFP No. 2010-111, including the RFP. You indicate the department will release some of the requested information to the requestor upon her response to a cost estimate letter. Although you take no position as to whether the submitted information is excepted under the Act, you inform us that release of this information may implicate the proprietary interests of PTS of America, L.L.C., and Strike Force of N.J. Special Ops (collectively, the "third parties"). Accordingly, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305(d)*; *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Act in certain circumstances). We have reviewed the submitted information.

We note 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 third parties explaining why the submitted information should not be released. Therefore,

we have no basis to conclude the third parties have a protected proprietary interest in the this 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. Accordingly, the department may not withhold any portion of the information it submitted for our review based upon the proprietary interests of the third parties.

We note portions of the submitted information are subject to sections 552.130 and 552.136 of the Government Code.<sup>1</sup> Section 552.130(a)(2) of the Government Code provides that information relating to a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov't Code § 552.130(a)(2). The department must withhold the vehicle identification numbers we have marked under section 552.130(a)(2) of the Government Code.

Section 552.136 of the Government Code provides in part that “[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.” *See id.* § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). This office has determined that insurance policy numbers are subject to section 552.136. Accordingly, the department must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

We also note some of the remaining information may 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. *See Open Records Decision No. 180 at 3 (1977)*. A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See id.*; *see also 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 department must withhold the vehicle identification numbers we have marked under section 552.130(a)(2) of the Government Code and the insurance policy numbers we have marked under section 552.136 of the Government Code. The department must release the remaining information, but any information protected by copyright may only be released in accordance with copyright law.

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<sup>1</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 460993

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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