



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 14, 2013

Mr. R. Brooks Moore
Managing Counsel, Governance
Office of General Counsel
Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2013-10105

Dear Mr. Moore:

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# 492197 (TAMU 13-209).

Texas A&M University (the "university") received a request for proposals, other vendor submissions, and materials concerning the final award pertaining to a specified request for proposals. Although you take no position on the submitted information, you state it may contain proprietary information subject to exception under the Act. Accordingly, you state, and provide documentation demonstrating, the university notified certain third parties of the request for information and of the companies' rights to submit arguments to this office as to why the requested information should not be released.¹ 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 the Act in certain circumstances). We have reviewed the submitted information.

¹The notified third parties are: Austin Ribbon & Computer; CAPERS; Cardinal Tracking, Inc.; Hitech Systems, Inc.; Integrated Computer Systems; InterAct Public Safety Systems; New World Systems; ProPhoenix Corporation; PTS Solutions, Inc.; SunGard Public Sector Inc.; TriTech d/b/a Information Management Corporation; and Tyler Technologies.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from any of the third parties. Thus, the third parties have not demonstrated the companies have protected proprietary interests in any of the submitted information. *See id.* § 552.110(a)-(b); 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 university may not withhold the submitted information on the basis of any proprietary interests any of the third parties may have in the information.

Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country.² Gov't Code § 552.130(a)(1)-(2). The submitted information contains motor vehicle record information, which we have marked. However, we are unable to determine whether the marked information constitutes actual motor vehicle record information for purposes of section 552.130 or whether it is fictitious motor vehicle information created as a sample for purposes of responding to the request for proposal at issue. Thus, to the extent the information we have marked constitutes actual motor vehicle record information, the university must withhold the marked information under section 552.130 of the Government Code. To the extent the information we have marked consists of fictitious motor vehicle record information, it may not be withheld under section 552.130.

Section 552.136 of the Government Code states, "[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." *Id.* § 552.136(b); *see also id.* § 552.136(a) (defining "access device"). This office has determined an insurance policy number is an access device number for the purposes of section 552.136. Accordingly, the university must withhold the information 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

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).

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, to the extent the information we have marked constitutes actual motor vehicle record information, the university must withhold the marked information under section 552.130 of the Government Code. The university must withhold the information we have marked under section 552.136 of the Government Code. The university must release the remaining information; however, any information protected by copyright may only be released in accordance with copyright law.³

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 492197

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the remaining information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

Ms. Bridget Chase
CAPERS
Suite L
9930 West 190th Street
Mokena, Illinois 60448
(w/o enclosures)

Mr. Steve Leuschner
Cardinal
1825 Lakeway Drive, Suite 100
Lewisville, Texas 75057
(w/o enclosures)

Mr. Tommy Galbraith
Integrated Computer Systems
3499 FM 1461
McKinney, Texas 75071
(w/o enclosures)

Mr. Sam Ramasamy
ProPhoenix
302 Harper Drive, Suite 301
Moorestown, New Jersey 08057
(w/o enclosures)

Mr. Dave Fuqua
PTS Solutions
100 Pine Street
Harrisonburg, Louisiana 71340
(w/o enclosures)

Ms. Jillian Malau
SunGuard
1000 Business Center Drive
Lake Mary, Florida 32746
(w/o enclosures)

Mr. Ryan Grant
ARC
Suite 202
9211 Waterford Centre Boulevard
Austin, Texas 78758
(w/o enclosures)

Mr. Brian S. Dunkle
Hitech
16030 Ventura Boulevard, Suite 120
Encino, California 91436
(w/o enclosures)

Mr. Christopher D. Maloney
TRITECH d/b/a Info. Management Corp
13 Centennial Drive
North Grafton, Massachusetts 01536
(w/o enclosures)

Ms. Cindy Williams
InterAct Public Safety System
102 West 3rd Street, Suite 750
Winston-Salem, North Carolina 27101
(w/o enclosures)

Mr. Craig Bickley
New Word Systems
888 West Big Beaver Road, Suite 600
Troy, Michigan 48084
(w/o enclosures)

Mr. S. Brett Cate
Tyler Technologies
5519 53rd Street
Lubbock, Texas 79414
(w/o enclosures)