



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 21, 2013

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2013-14585

Dear Mr. Cumbie:

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# 497044 (PIR No. W026226).

The City of Fort Worth (the "city") received a request for records pertaining to request for proposals number 12-0182, Workers' Compensation Claims Administration. You state you have released some information to the requestor. Although the city takes no position regarding whether the submitted information is excepted from disclosure, you state release of this information may implicate the proprietary interests of CCS Consulting, L.P. ("CCS"); CorVel Corp. ("CorVel"); Hammerman & Gainer ("H&G"); and TRISTAR Risk Management ("TRISTAR"). Accordingly, you provide documentation showing you have notified these companies of the request and their right to submit arguments to this office. *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.

We first 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 ruling, we have not received comments from any of the third parties. Thus, CCS,

CorVel, H&G, and TRISTAR have not demonstrated they 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 city may not withhold any of the information at issue on the basis of any proprietary interest CCS, CorVel, H&G, or TRISTAR may have in the information.

Section 552.136 of the Government Code states, “Notwithstanding 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.”¹ Gov’t Code § 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 552.136.² Accordingly, the city must withhold the insurance policy numbers you have marked and the additional policy numbers we have marked under section 552.136 of the Government Code.³

We note some of the information at issue 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 city must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The city must release the remaining information; however, any information protected by copyright may only be released in accordance with copyright law.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²*See* Open Records Decision No. 684 at 9 (2009) (insurance policy number is an access device number for purposes of section 552.136)

³Section 552.136(c) authorizes a governmental body to redact information protected by section 552.136(b) without requesting a decision. *See id.* § 552.136(d)-(e) (providing requestor may appeal governmental body’s decision to withhold information under section 552.136(c) to attorney general, and governmental body withholding information pursuant to section 552.136(c) must provide notice to requestor).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 497044

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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