



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 18, 2014

Ms. Laurie Wainwright
Contracts Administrator/Public Information Officer
Harris County Purchasing Office
1001 Preston, Suite 670
Houston, Texas 77002

OR2014-20923

Dear Ms. Wainwright:

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# 543483.

The Harris County Purchasing Office (the "purchasing office") received a request for information pertaining to request for proposals number 1410170. Although you take no position with respect to the public availability of the requested information, you state its release may implicate the proprietary interests of certain third parties, namely: Arthur J. Gallagher Risk Management Services, Inc. ("AJG"); and Colt Risk Management Services, L.L.C. ("CRMS"). Accordingly, you state, and provide documentation demonstrating, the purchasing office notified these third parties of the request for information and of their right to submit arguments stating why their 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) (determining 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). You have provided copies of correspondence from AJG and CRMS. We have considered the submitted arguments and reviewed the submitted information.

AJG and CRMS generally assert their information is confidential. However, information is not confidential under the Act simply because the party submitting the information requests

that it be kept confidential. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S. W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot, through an agreement or contract, overrule or repeal provisions of the Act. Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 541 at 3 (1990) (“[T]he obligations of a governmental body under [the predecessor to the Act] cannot be compromised simply by its decision to enter into a contract.”); 203 at 1 (1978) (mere expectation of confidentiality by person supplying information does not satisfy requirements of statutory predecessor to Gov’t Code § 552.110). Consequently, unless the information at issue comes within an exception to disclosure, it must be released, notwithstanding any expectation or agreement to the contrary.

Section 552.136 of the Government Code states 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.” 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. We note the submitted information may contain insurance policy numbers subject to section 552.136. However, we are unable to determine whether these numbers constitute real insurance policy numbers for purposes of section 552.136. Thus, to the extent the submitted information contains real insurance policy numbers, the purchasing office must withhold them under section 552.136 of the Government Code.

We note some of the submitted 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. 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, to the extent the submitted information contains real insurance policy numbers, the purchasing office must withhold them under section 552.136 of the Government Code. The purchasing office must release the remaining information; however, the purchasing office may only release information subject to copyright 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.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,



Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/som

Ref: ID# 543483

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Alfreda White
Colt Risk Management Services, LLC
300 Flint Ridge Road
Webster, Texas 77598-4315
(w/o enclosures)

Ms. Cyndi Boehle
Area Senior Vice President
Arthur J. Gallagher Risk Management
Services, Inc.
5420 LBJ Freeway, Suite 400
Dallas, Texas 75240
(w/o enclosures)