



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 19, 2015

Ms. Heather Silver  
Assistant City Attorney  
Office of the City Attorney  
City of Dallas  
1500 Marilla Street, Room 7DN  
Dallas, Texas 75201

OR2015-21883

Dear Ms. Silver:

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# 583544.

The City of Dallas (the "city") received a request for bids submitted for RFP number BVZ1506-Security Guard Services, including the winning bid. You state you will release some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state you have notified Andy Frain Services, Inc.; Allied Barton Security Services, L.L.C. ("AlliedBarton"); Cooley's Security Service; Kent Security of Texas, Inc.; Norred & Associates, Inc.; ORJR, Inc., d/b/a Texas Professional Security Services; Ruiz Protective Service, Inc.; Twin City Security, Inc.; and U.S. Security Associates, Inc., 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 the Act in certain circumstances). We have received comments from AlliedBarton. We have reviewed the submitted arguments and the submitted information.

Initially, 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 any of the remaining third parties explaining why their information should not be released. Therefore, we have no basis to conclude any of the remaining third parties has a protected proprietary interest in the submitted 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 city may not withhold any of the information at issue on the basis of any proprietary interest the remaining third parties may have in it.

AlliedBarton claims some of its submitted information is excepted under section 552.104 of the Government Code. Section 552.104(a) excepts from disclosure “information that, if released, would give advantage to a competitor or bidder.” Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The “test under section 552.104 is whether knowing another bidder’s [or competitor’s information] would be an advantage, not whether it would be a decisive advantage.” *Id.* at 841. AlliedBarton states it has competitors. In addition, AlliedBarton states its proprietary information, if released, could give a critical advantage to a competitor. After review of the information at issue and consideration of the arguments, we find AlliedBarton has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the city may withhold the information we have marked under section 552.104(a) of the Government Code.<sup>1</sup>

Section 552.136 of the Government Code provides. “Notwithstanding 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.”<sup>2</sup> 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 city must withhold the insurance policy numbers within the remaining documents under section 552.136 of the Government Code.

In summary, the city may withhold the information we have marked under section 552.104(a) of the Government Code. The city must withhold the insurance policy numbers within the remaining documents under section 552.136 of the Government Code. The remaining information must be released.

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<sup>1</sup>As our ruling is dispositive, we need not address AlliedBarton’s remaining arguments against disclosure.

<sup>2</sup>The 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).

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](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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 583544

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Robb Minnis  
Vice President  
Ruiz Protective Service  
2646 Andjon Drive  
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(w/o enclosures)

Mr. Peter R. Haas  
Vice President and General Manager  
Alliedbarton Security Services  
3030 Lbj Freeway, Suite #800  
Dallas, Texas 75234  
(w/o enclosures)

Mr. Jeff Bohling  
President  
Norred & Associates  
600 South Central Avenue  
Atlanta, Georgia 30354  
(w/o enclosures)

Mr. Brian Lumby  
Regional Manager  
U.S. Security Associates  
200 Mansell Court - Fifth Floor  
Rosewell, Georgia 30076  
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Mr. Jerry L. Mojeck  
Corporate Officer  
Twin City Security  
8131 LBJ Freeway, Suite 125  
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Mr. Jermaine Cooley  
Owner  
Cooley's Security Service  
924 St. George Place  
DeSoto, Texas 75115  
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Mr. Gil Neuman  
CEO  
Kent Security of Texas  
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