



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 13, 2017

Ms. Kristen Lee
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2017-00922

Dear Ms. Lee:

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# 641847 (Ref. No. 16PIA0641).

The Harris County Purchasing Agent's Office (the "purchasing agent's office") received a request for the judges' scores, judges' comments, and proposals submitted for a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you inform us release of this information may implicate the proprietary interests of Infrastructure Services, Inc. ("ISI"). Accordingly, you state, and provide documentation showing, you notified ISI of the request for information and of its right to submit arguments to this office as to why the information at issue 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 reviewed the submitted information.

Initially, we note the purchasing agent's office has only submitted information pertaining to ISI's proposal for the specified request for proposals. To the extent information responsive to the remainder of the request existed on the date the purchasing agent's office received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if

governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from ISI explaining why the submitted information should not be released. Therefore, we have no basis to conclude ISI 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the purchasing agent's office may not withhold the submitted information on the basis of any proprietary interest ISI may have in the information.

Section 552.136 of the Government Code provides, "[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."¹ 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. *See* Open Records Decision No. 684 at 9 (2009). Upon review, the purchasing agent's office must withhold the insurance policy numbers in the submitted information under section 552.136 of the Government Code. The purchasing agent's office must release the remaining information.

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

¹The 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).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal flourish extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 641847

Enc. Submitted documents

c: Requestor
(w/o enclosures)