



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 12, 2017

Ms. Lisa Ott Laky  
General Counsel  
Austin Travis County Integral Care  
P.O. Box 3548  
Austin, Texas 78764

OR2017-07801

Dear Ms. Laky:

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# 653426.

The Austin-Travis County Mental Health and Mental Retardation Center d/b/a Austin Travis County Integral Care (the "center") received a request for all submitted proposals for two specified solicitations. You state you have released some 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 Addison Whitney, LLC ("Addison"); Resonant Brands, LLC ("Resonant"); theGKWco, LLC ("theGKWco"); Rival Creative, LLC ("Rival"); Trademark Media Corporation ("Trademark"); Svanaco, Inc. (Americaneagle.com) ("Svanaco"); Rightpoint Consulting, LLC dba Agency Oasis ("Agency Oasis"); and OPIN Software, Inc. ("OPIN"). Accordingly, you state, and provide documentation showing, you notified the interested third parties of the request for information and of their 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 received comments from OPIN. We have considered the submitted arguments and reviewed the submitted information.

Next, 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) 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* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Addison, Resonant, theGKWco, Rival, Trademark, Svanaca, and Agency Oasis explaining why the submitted information should not be released. Therefore, we have no basis to conclude those parties have protected proprietary interests 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 center may not withhold any portion of the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

OPIN generally asserts its information is confidential pursuant to section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that is considered to be confidential under other law. *See* Open Records Decision Nos. 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality), 611 at 1 (1992) (common-law privacy). Although OPIN states its information should be withheld from disclosure, OPIN does not direct our attention to any law, nor are we aware of any law, under which any of the information at issue is considered to be confidential for purposes of section 552.101. Therefore, none of the information at issue may be withheld under section 552.101 of the Government Code.

Section 552.136(b) 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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device").<sup>1</sup> This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, the center must withhold the insurance policy numbers we marked 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

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<sup>1</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).

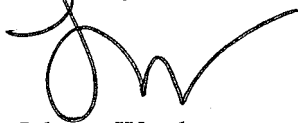
information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the center must withhold the insurance policy numbers we marked under section 552.136 of the Government Code. The center must release the remaining information; however, any information subject to copyright may only be released 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](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,



Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/eb

Ref: ID# 653426

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

8 Third Parties  
(w/o enclosures)