



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 25, 2009

Ms. Ashley R. Allen  
Administrative Law Section  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

OR2009-03879

Dear Ms. Allen:

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# 338971.

The Texas General Land Office (the "GLO") received a request for "a copy of the winning proposal" related to a specified request for proposals. Although the GLO raises no exception to disclosure on its own behalf, you claim that the release of the submitted information may affect the proprietary interests of the interested third party, Crowder Gulf. Pursuant to section 552.305 of the Government Code, you state that you notified Crowder Gulf of the request and of the company's 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) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Act in certain circumstances).* We have reviewed the submitted information.

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 requested information relating to it should be withheld from disclosure. *See Gov't Code § 552.305(d)(2)(B).* As of the date of this letter, this office has received no comments from Crowder Gulf explaining why its submitted information should not be released. Therefore, this company has failed to provide us with any basis to conclude that it has protected

proprietary interests in any of the submitted information. *See* 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, we conclude that the GLO may not withhold any portion of the submitted information on the basis of any proprietary interest Crowder Gulf may have in the information.

We note that the submitted information contains insurance policy numbers. Section 552.136 of the Government Code states that “[n]otwithstanding 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.”<sup>1</sup> Gov’t Code § 552.136. Accordingly, the GLO must withhold the insurance policy numbers we have marked under section 552.136.

We further note that some of the materials at issue 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. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* 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. *See* Open Records Decision No. 550 (1990).

In summary, insurance policy numbers must be withheld under section 552.136 of the Government Code. The remaining information must be released, but any copyrighted information 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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>1</sup>This office will raise a mandatory exception like section 552.136 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 under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jb

Ref: ID# 338971

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. John Ramsey  
Crowder Gulf  
5435 Business Parkway  
Theodore, Alabama 36582  
(w/o enclosures)