



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 1, 2009

Ms. Janie L. Johnson  
Criminal District Attorney  
Gregg County  
101 East Methvin, Suite 333  
Longview, Texas 75601

OR2009-09097

Dear Ms. Johnson:

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# 347779.

Gregg County (the "county") received a request for the current inmate telephone service contract and the commissary contract. You state the county has provided the requestor with the inmate telephone service contract. Although you raise no exceptions to disclosure of the commissary contract, you state release of this information may implicate the proprietary interest of Swanson Services Corporation ("Swanson"). Thus, pursuant to section 552.305 of the Government Code, you have notified Swanson of the request and of its right to submit arguments to this office as to why its information 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 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 a governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this letter, we have not received arguments from Swanson. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information of Swanson, and the

county may not withhold any portion of the submitted information on that basis. *See id.* § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence that release of requested information would cause that party substantial competitive harm).

We note, however, a portion of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 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.” Gov’t Code § 552.136. Upon review, we determine the insurance policy numbers we have marked constitute access devices numbers purposes of section 552.136. Therefore, the county must withhold the marked insurance policy numbers under section 552.136 of the Government.

We also note that 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. 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, the county must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The remaining information must be released, but any information protected by copyright must 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.

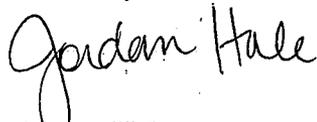
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. 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,

A handwritten signature in cursive script that reads "Jordan Hale".

Jordan Hale  
Assistant Attorney General  
Open Records Division

JH/eeg

Ref: ID# 347779

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Mr. Carlos J. Santos, Jr.  
Swanson Services Corporation  
702 Avenue R  
Grand Prairie, Texas 75050  
(w/o enclosures)