



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 16, 2009

Ms. Cynthia Villarreal-Reyna  
Section Chief  
Legal and Regulatory Affairs Division  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2009-09831

Dear Ms. Villarreal-Reyna:

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# 349340 (TDI Request No. 90757).

The Texas Department of Insurance (the "department") received a request for all proposals submitted in response to a specified RFI. You state you have released some of the requested information. Although you take no position with respect to the public availability of the submitted information, you indicate you have notified certain third parties of the request and of each company's right to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> 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 the applicability of exception to disclose 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 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, none of

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<sup>1</sup>The third parties are: Speedware American, Inc., SourceCorp, Ambonare, AON eSolutions, ResQSoft, Amentra, and Fujitsu.

the third parties have submitted comments to this office explaining why any portion of the submitted information relating to them should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information would implicate the third parties' interests, and none of the information may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 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), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret).

We note some of the submitted information is 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). As no exceptions to disclosure have been raised, the submitted information must be released; however, copyrighted portions of the information must 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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

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