



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 23, 2009

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston  
P. O. Box 368  
Houston, Texas 77001-0368

OR2009-16644

Dear Ms. De La Garza:

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# 362236.

The City of Houston (the "city") received a request for ten categories of documents provided by Andrews International ("Andrews") to the city in response to a specified bid solicitation, and any documents evaluating this bid. You believe the requested information may be excepted from disclosure under section 552.101, 552.104, 552.110, 552.113, 552.131, or 552.133 of the Government Code, but take no position on the applicability of these exceptions. However, you indicate that release of the information at issue may implicate the proprietary interests of third parties. Accordingly, you inform us, and provide documentation showing, that you notified Andrews 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)* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

We note that 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 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, we have not received any arguments from Andrews. We, thus, have no basis for concluding that any portion of the submitted information constitutes proprietary 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 city may not withhold any of the submitted information based on the proprietary interests of any interested third parties.

We note the submitted information contains insurance policy numbers.<sup>1</sup> Section 552.136(b) of the Government Code states that “[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). This office has determined that insurance policy numbers are access device numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining “access device”). Therefore, the city must withhold the insurance policy numbers we have marked pursuant to section 552.136 of the Government Code.

We note that portions of the information at issue are 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 city must withhold the information we have marked under section 552.136 of the Government Code. The city must release the remaining information, but 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.

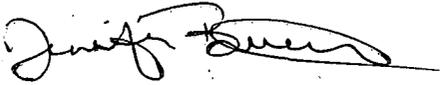
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php),

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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).

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, toll free, at (888) 672-6787.

Sincerely,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/eeg

Ref: ID# 362236

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Randy Andrews  
Andrews International  
27959 Smyth Drive  
Valencia, California 91355  
(w/o enclosures)