



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2012

Mr. Paul S. Watkins
County Attorney
Gonzales County
415 St. Louis Street
Gonzales, Texas 78629-4029

OR2012-15163

Dear Mr. Watkins:

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# 467346.

The Gonzales County Attorney's Office (the "county") received a request for (1) "all current contracts that the [county] has entered into for the provision of online legal research with any provider, including but not limited to Thomson-West (Westlaw)[;]" and (2) "all proposals submitted by any legal research provider, including but not limited to Thomson-West (Westlaw) pursuant to the award of a contract or release of a purchase order, delivery order and/or modification order." 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 Thomson-Reuters ("Thomson"). Accordingly, you state, and provide documentation showing, you notified Thomson of the request for information and of its right to submit arguments to this office as to why the submitted information 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). You have provided arguments submitted by Thomson. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you did not submit information responsive to item number two of the request. To the extent such information existed and was maintained by the county on the

date it received the request for information, we presume the county has released it. If not, the county must do so at this time.¹ See Gov't Code §§ 552.301, .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

We understand Thomson to assert the submitted information is confidential because it is subject to a confidentiality agreement. We note that information is not confidential under the Act simply because the party that submits the information anticipates or requests that it be kept confidential. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976). In other words, a governmental body cannot overrule or repeal provisions of the Act through an agreement or contract. See Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 541 at 3 (1990) (“[T]he obligations of a governmental body under [the Act] cannot be compromised simply by its decision to enter into a contract.”), 203 at 1 (1978) (mere expectation of confidentiality by person supplying information does not satisfy requirements of statutory predecessor to section 552.110). Consequently, unless the information at issue falls within an exception to disclosure, it must be released, notwithstanding any expectation or agreement to the contrary.

We note a portion of the submitted information is subject to section 552.136 of the Government Code.² 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. Accordingly, we find the county must withhold the account numbers we have marked under section 552.136 of the Government Code.

In summary, the county must withhold the account numbers we have marked under section 552.136 of the Government Code. The remaining information must be released.

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.

¹We note the Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²The 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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/som

Ref: ID# 467346

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Alma Lorraine E. Ponteres
Customer Service Specialist
Thomson Reuters
c/o Paul Watkins
County Attorney
Gonzales County
415 St. Louis Street
Gonzales, Texas 78629-4029
(w/o enclosures)