



January 12, 2015

Ms. Jacqueline E. Hojem  
Public Information Coordinator  
Metropolitan Transit Authority of Harris County  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2015-00546

Dear Ms. Hojem:

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# 549651 (MTA No. 2015-0013).

The Metropolitan Transit Authority of Harris County (the "authority") received a request for all proposals in response to a specified request for proposals as well as the bid tabulations and scoring. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the information may implicate the proprietary interests of AAA Analytics ("AAA"), Gallagher Benefit Services, Inc. ("Gallagher"), Stone Partners ("Stone"), Willis of Texas, Inc. ("Willis"), AON Consulting ("AON"), Mercer, Buck Consultants ("Buck"), and CRG. Accordingly, you state, and provide documentation showing, you notified the third parties of the request for information and of their rights 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). 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 information relating to that party should be withheld from public disclosure. *See Gov't Code § 552.305(d)(2)(B)*. You have provided comments stating Stone, AON, and Mercer do not object to release of their information. Further, as of the date of this letter, we have not received comments from any remaining third party explaining why the submitted information

should not be released. Therefore, we have no basis to conclude any third party has a protected proprietary interest in the submitted 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the authority may not withhold any of the submitted information on the basis of any proprietary interest any third party may have in the information.

We note some of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136(b) provides, “[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 insurance policy numbers are access device numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining “access device”). Accordingly, the authority must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

Some of the remaining information appears to 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. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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.

In summary, the authority must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The remaining information must be released in compliance with applicable 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

---

<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Daniel Olds  
Assistant Attorney General  
Open Records Division

DO/akg

Ref: ID# 549651

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Sailaja Bandyopadhyay  
AAA Analytics  
19915 Winsor Terrace Circle  
Katy, Texas 77450  
(w/o enclosures)

Ms. Marilyn Beavers  
AON Consulting  
1330 Post Oak Boulevard, #900  
Houston, Texas 77056  
(w/o enclosures)

Mr. Jerry Guy  
Gallagher Benefit Services, Inc.  
14241 Dallas Parkway, #300  
Dallas, Texas 75254  
(w/o enclosures)

Ms. Mary Morrison  
Mercer  
1000 Main Street #2900  
Houston, Texas 77002  
(w/o enclosures)

Mr. James Stone  
Stone Partners  
5555 San Felipe, #850  
Houston, Texas 77056  
(w/o enclosures)

Mr. Jorge Font  
Buck Consultants  
1000 Louisiana Street #4900  
Houston, Texas 77002  
(w/o enclosures)

Mr. Richard Tisch  
Wills of Texas, Inc  
920 Memorial City Way, #500  
Houston, Texas 77024  
(w/o enclosures)

Mr. Charles Rogers, Jr.  
CRG  
P.O. Box 300645  
Houston, Texas 77230-0645  
(w/o enclosures)