



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 12, 2015

Mr. Todd Sellars
Assistant District Attorney
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2015-09222

Dear Mr. Sellars:

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# 563435.

Dallas County (the "county") received a request for a specific contract and insurance certificate.¹ Although the county takes no position with respect to the public availability of the submitted information, the county states release of this information may implicate the proprietary interests of Vets Securing America, Inc. ("Vets"). Accordingly, the county states, and provides documentation showing, it notified Vets 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). We have reviewed the submitted information.

¹We note the county sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date therequest is clarified or narrowed).

Initially, we note the requestor only seeks the specific contract and insurance certificate specified in the request. We note the submitted information contains information beyond this information. Accordingly, the submitted information that is not the contract or insurance certificate at issue is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the county is not required to release such information in response to this request.

The county informs us some of the responsive information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-18728A (2014). In Open Records Letter No. 2014-18728A, we determined, 1) to the extent the customer information is not publicly available on the company's website, the county must withhold Vets's customer information under section 552.110(a) of the Government Code and, 2) the county must release the remaining information, but only in accordance with copyright law. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the county must continue to rely on Open Records Letter No. 2014-18728A as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001)(discussing criteria for first type of previous determination).

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). As of the date of this letter, we have not received comments from Vets explaining why the remaining responsive information should not be released. Therefore, we have no basis to conclude Vets has a protected proprietary interest in the responsive 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 county may not withhold the responsive information on the basis of any proprietary interest Vets may have in the information.

Section 552.136 of the Government Code 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."² Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Upon review, the county must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

In summary, the county must continue to rely on Open Records Letter No. 2014-18728A as a previous determination and withhold or release the identical information in accordance with that ruling. The county must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The county must release the remaining responsive information.

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

Sincerely,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/eb

Ref: ID# 563435

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Gerald A. Gregory
Vets Securing America
DFW Regional Office
910 Houston Street
Fort Worth, Texas 76102
(w/o enclosures)