



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 8, 2016

Mr. Richard R. Gore
Assistant Criminal District Attorney
County of Randall
2309 Russell Long Boulevard, Suite 120
Canyon, Texas 79015

OR2016-05324

Dear Mr. Gore:

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# 601076.

The Randall County Purchasing Department (the "county") received a request for information pertaining to request for proposals number 2015-04, including the bidders' complete responses, scoring documents, communications, and the final contract. Although the county takes no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of several third parties. Accordingly, you state, and provide documentation showing, you notified Correct Solutions, L.L.C. ("Correct"); Encartele, Inc. ("Encartele"); Global Tel-Link ("GTL"); IC Solutions ("ICS"); and Securus Technologies ("Securus") of the request for information and of their 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 received comments from Encartele and GTL. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have only submitted information responsive to the first part of the request. To the extent information responsive to the remaining portions of the request existed on the date the county received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Next, we note the submitted information pertaining to Correct, Encartele, GTL, and ICS was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-26928 (2015). In that ruling, we determined the county may withhold Encartele's financial information and GTL's information under section 552.104 of the Government Code, must withhold insurance policy numbers under section 552.136 of the Government Code, and must release the remaining information at issue in accordance with copyright law. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the county must rely on Open Records Letter No. 2015-26928 as a previous determination and withhold or release the information pertaining to Correct, Encartele, GTL, and ICS in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). As Securus's information was not responsive to the prior request for information, we will consider whether Securus's information must be released.

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 id.* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Securus explaining why its information should not be released. Therefore, we have no basis to conclude Securus has a protected proprietary interest in its 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 county may not withhold the submitted information on the basis of any proprietary interest Securus may have in the information.

Section 552.136 of the Government Code states “[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.”¹ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device number for purposes of this exception. Thus, the county must withhold the insurance policy numbers in Securus's information under section 552.136 of the Government Code.

¹The 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).

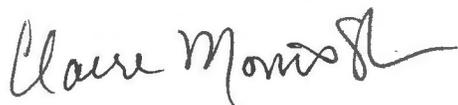
We note some of the remaining information may be subject to copyright law. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted 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 county must rely on Open Records Letter No. 2015-26928 as a previous determination and withhold or release the information pertaining to Correct, Encartele, GTL, and ICS in accordance with that ruling. The county must withhold the insurance policy numbers in Securus's information under section 552.136 of the Government Code and must release the remainder of Securus's information; however, any information protected by copyright may be released only 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.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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 601076

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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