



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2009

Ms. Neera Chatterjee
Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-17478

Dear Ms. Chatterjee:

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# 364199.

The University of Texas of the Permian Basin (the "university") received a request for communications between the university and the Presidential Museum or its representatives (collectively, the "museum") during a specified time period. You claim that some of the requested information is excepted from disclosure under section 552.136 of the Government Code. Additionally, you believe that this request for information implicates the proprietary interests of a third party. You state, and provide documentation showing, that you have notified the museum, the interested third party, of the request and of its opportunity to submit comments to this office as to why the requested information should not be released to the requestor. *See Gov't Code § 552.305(d); see also Open Records Decision No. 542 (1990)* (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under the Act in certain circumstances). We have considered the claimed exception and reviewed the submitted information.

Initially, we note you have marked information in the submitted documents that you state is nonresponsive to the present request for information, as it pertains to individuals other than those named by the requestor. Therefore, the information you have marked is not responsive to the present request. The university need not release nonresponsive information in response to this request, and this ruling will not address that information.

We next 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) 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 decision, the museum has not submitted to this office any reasons explaining why its information should not be released. Therefore, the museum has provided us with no basis to conclude that it has protected proprietary interests in any of the submitted information. *See, e.g., id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990). Accordingly, we conclude that the university may not withhold any portion of the submitted information on the basis of any proprietary interest the museum may have in the information.

Section 552.136 of the Government Code provides 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.” *Id.* § 552.136. This office has concluded that insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, the university must withhold the insurance policy numbers you have marked, and the additional policy number that we have marked, under section 552.136 of the Government Code. The remaining information must be released to the requestor.

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, 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 364199

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Wade Hudman
The Presidential Museum
3800 East 42nd Street, Suite 409
Odessa, Texas 79762-5982
(w/o enclosures)