



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2010

Mr. James Downes  
Assistant County Attorney  
Harris County Attorney's Office  
2525 Holly Hall, Suite 190  
Houston, Texas 77054

OR2010-01294

Dear Mr. Downes:

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# 368401 (C.A. File Number 09HSP1514).

The Harris County Hospital District (the "district") received a request for all proposals submitted for the RFQ for Job Number 09/0029, LBJ Westlands Expansion and Old Ben Taub Hospital Renovation. The district takes no position on whether the submitted information is excepted from disclosure, but states that release of this information may implicate the proprietary interests of J. T. Vaughn Construction Company, L.L.C. and Skanska USA Building, Inc. (collectively, the "third parties"). Accordingly, you inform us, and provide documentation showing, that you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the submitted information.

Initially, we 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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any arguments from either of the third parties. We, thus, have no basis for concluding that any portion of these companies' submitted information constitutes their proprietary 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, that release of requested

information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the district may not withhold any of the submitted information based on the proprietary interests of the third parties.

We note that a portion of the submitted information is excepted under section 552.136 of the Government Code.<sup>1</sup> 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(b). Accordingly, the district must withhold the bank account number we have marked under section 552.136 of the Government Code.<sup>2</sup> As no exceptions have been raised, 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](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,



Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/jb

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<sup>1</sup>The 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).

<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including bank account numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 368401

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Ronnie Howe, Jr.  
Skanska USA Building, Inc.  
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(w/o enclosures)

Mr. Tom Vaughn  
J.T. Vaughn Construction Co., L.L.C.  
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Houston, Texas 77042  
(w/o enclosures)