



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 19, 2010

Ms. Destinee Waiters
Assistant General Counsel
Houston Community College
3100 Main Street
Houston, Texas 77002

OR2010-15849

Dear Ms. Waiters:

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# 397172.

Houston Community College (the "college") received a request for the response from a named company to RFP 09-36, Maintenance Painting Services. Although you take no position with respect to the public availability of the requested information, you state release of this information may implicate the proprietary interests of a third party. You inform us, and provide documentation showing, pursuant to section 552.305 of the Government Code, the college has notified J's Quality Construction, Inc. ("JQC") of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have reviewed the submitted information.

Initially, we note 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 requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, JQC has not submitted any comments to this office explaining how release of the information at issue would affect its proprietary interests. Accordingly, the college may not withhold any of the information at issue on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6

(1999) (stating business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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).

Next, we note a portion of the submitted information is subject to section 552.136 of the Government Code.¹ Section 552.136 states “[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); *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. Accordingly, the college must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.² As you raise no argument against disclosure, the college must release the remaining 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.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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

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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).

²We 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 an insurance policy number under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 397172

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Jocelyne Ramirez
J's Quality Construction, Inc.
7314 Briefway
Houston, Texas 77087
(w/o enclosures)