



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 7, 2010

Ms. Margo Kaiser  
Staff Attorney  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street  
Austin, Texas 78778-0001

OR2010-18330

Dear Ms. Kaiser:

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# 402183 (TWC Tracking No. 100916-040).

The Texas Workforce Commission (the "commission") received a request for (1) all open records requests and/or subpoenas received by the commission to obtain required annual enrollment and outcome reports for named career schools and colleges in the past five years; (2) all communications between the commission and named career schools and colleges in the past three years related to subpoenas and/or open records requests; and (3) all communications between six named individuals and named career schools and colleges regarding limitations on disclosure of career school information. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.116 of the Government Code. You also state release of the requested information may implicate the proprietary interests of third parties. Accordingly, you state you have notified these third parties of the request and of their right to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> 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

---

<sup>1</sup>We understand the third parties are Everest College, ATI College, and Westwood College.

explain applicability of exception to disclosure under certain circumstances). We have considered the exceptions you claim.

You assert that the request for information has been withdrawn by operation of law because the requestor has failed to respond to the itemized cost estimate for copies of the requested information. Under section 552.2615 of the Government Code, a governmental body is required to provide a requestor with an estimate of charges when a request to inspect a paper record will result in the imposition of a charge that will exceed forty dollars. *See Gov't Code § 552.2615*. The relevant portion of section 552.2615 provides:

(a) . . . the governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request . . . is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 business days after the date the statement is sent to the requestor that

(1) the requestor will accept the estimated charge;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

*Id.* § 552.2615(a), (b). You provide documentation showing you provided the requestor with an itemized cost estimate for information responsive to the request. Upon review, we agree the cost estimate complies with the requirements of section 552.2615. Further, you state the requestor did not respond to the issued estimate in accordance with section 552.2615. Accordingly, we agree that section 552.2615(b) is applicable to this request, and the commission need not provide the requestor with the requested information. As we are able to make this determination, we need not address your arguments against disclosure.

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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 402183

c: Requestor