



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2010

Mr. R. Brooks Moore
Assistant General Counsel
The Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845

OR2010-19058

Dear Mr. Moore:

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# 404625 (TAMU PIR# 10-524).

Texas A&M University (the "university") received a request for all vendor agreements, contracts and purchase orders the university has set in relation to its athletic drug-testing program over the last two years, as well as all information provided by vendors the last time the university put the drug testing of athletes up for bid or requested proposals. You state you will release some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code. Although you take no position on whether the requested bids are excepted from disclosure, you state release of this information may implicate the proprietary interests of third parties.¹ Accordingly, you have notified these 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

¹The interested third parties are the following: Aegis Analytical Laboratories, Alere Toxicology Services, Inc., Chem Chek, Inc., Forward Edge, Inc., Midlands Testing Services, Pinnacle Medical Supply, Quest Diagnostics, and the National Center for a Drug Free Sport, Inc.

disclosure under certain circumstances). We have considered the exception you claim and reviewed the submitted information.

Section 552.136(b) of the Government Code states that “[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.” Gov’t Code § 552.136(b). This office has determined that insurance policy numbers are access device numbers for purposes of section 552.136. *See id.* § 552.136(a) (defining “access device”). Therefore, the university must withhold the insurance policy numbers you have marked pursuant to section 552.136 of the Government Code.²

Next, 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 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, we have not received correspondence from any of the interested third parties. Thus, none of these third parties have demonstrated that they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 (1990). Accordingly, the university may not withhold these proposals on the basis of any proprietary interest any of the interested third parties may have in the submitted information.

In summary, the university must withhold the insurance policy numbers you have marked under section 552.136 of the Government Code. 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, 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

²We note that this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including insurance policy numbers under section 552.136, without the necessity of requesting an attorney general decision.

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 404625

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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