



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 20, 2011

Mr. Justin D. Gordon
Assistant General Counsel
Office of the General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2011-07176

Dear Mr. Gordon:

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# 419668 (OOG# 124-11).

The Office of the Governor (the "governor") received a request for a specified company's Texas Enterprise Fund Application. Although you take no position on the public availability of the submitted information, you state this information may implicate the proprietary interests of Virtual Computing Environment Co. ("VCE"). Accordingly, pursuant to section 552.305 of the Government Code, you state you have notified VCE of the request and of its right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *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 to disclosure under Act 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, VCE has not submitted any comments to this office explaining how release of the submitted information would affect its proprietary interests. Accordingly, the governor may not withhold any of the submitted information on the basis of VCE's proprietary interests. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret).

We note a portion of the submitted information is subject to section 552.136 of the Government Code.¹ Section 552.136 provides “[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”). Accordingly, the governor must withhold the bank account and bank routing numbers we have marked under section 552.136 of the Government Code.² The governor 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

MTH/em

Ref: ID# 419668

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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).

²This office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including bank account and bank routing numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.