



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2011

Mr. Robert Russo  
For La Vernia Independent School District  
Walsh, Anderson, Brown, Gallegos and Green, P.C.  
P.O. Box 460606  
San Antonio, Texas 78246

OR2011-18609

Dear Mr. Russo:

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# 439294.

The La Vernia Independent School District (the "district"), which you represent, received a request for "detail[s] on each of the listed transactions, including purchase orders, invoices, receipts, copies of cancelled checks (front and back of check copies), etc. to support each of the named transactions that are detailed on the attached spreadsheet" and the "reconciled activity statement that the sponsors signed off on regarding this account." You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides in relevant part the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a). In this instance, the submitted information consists of receipts, purchase orders, and cancelled checks that pertain to the expenditure of funds by the district.

This information is subject to section 552.022(a)(3). Although you raise section 552.108 of the Government Code for the submitted information, this is a discretionary exception and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, the submitted information may not be withheld under section 552.108. However, we note that portions of the submitted information are excepted from disclosure under section 552.136 of the Government Code.<sup>1</sup> Because section 552.136 makes information confidential under the Act, we will address the applicability of this exception to the submitted information. *See* Gov't Code § 552.136 (providing for “confidentiality” of information under section 552.136).

Section 552.136 of the Government Code 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(b) (defining “access device”). Accordingly, the district must withhold the bank account and bank routing numbers we have marked pursuant to section 552.136 of the Government Code.

In addition, you inform us the district has redacted bank account numbers under section 552.136 of the Government Code pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> Upon review of the information you have redacted, however, we note that a portion of the information, which is contained in copies of cancelled checks, does not consist of bank account numbers or bank routing numbers for purposes of section 552.136. Thus, such information may not be withheld under that exception.<sup>3</sup> Our records do not indicate that the district has been authorized to withhold the information at issue without seeking a ruling

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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 Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold 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. However, on September 1, 2011, the Texas legislature amended section 552.136 to allow a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 27 (to be codified at Gov't Code §552.136(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 27 (to be codified at Gov't Code §552.136(d), (e)). Thus, the statutory amendments to section 552.136 of the Government Code superceded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to section 552.136(b) in accordance with section 552.136, not Open Records Decision No. 684.

<sup>3</sup>The information redacted that we find is not excepted under section 552.136 consists of the listing of the check number that is alongside the bank account numbers and bank routing numbers at the bottom of the copies of cancelled checks submitted to this office for our review. To the extent the check numbers at issue are also found in the information redacted from the backs of the submitted checks, we similarly find such numbers are not excepted under section 552.136.

from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2000). In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. However, in the future, the district must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301 of the Government Code, or unless another provision of the Act authorizes the district to withhold such information without seeking a ruling from this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302, .136(c). Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.* § 552.302.

To conclude, the district must withhold the information we have marked under section 552.136 of the Government Code. The remaining submitted information, including the information you have redacted that we find does not consist of bank account numbers or bank routing numbers as described herein, must be released to the requestor.

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,



Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/dls

Ref: ID# 439294

Enc. Submitted documents

c: Requestor  
(w/o enclosures)