



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2012

Ms. Elaine Nicholson
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2012-07394

Dear Ms. Nicholson:

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# 454212.

The City of Austin (the "city") received a request for the response to RFP CB30017 by the Texas Rowing Center ("TRC"), the scored matrix for the RFP, all additional response papers provided by TRC, and four categories of information related to a cited violation against TRC. Although the city takes no position with respect to the public availability of the submitted information, you indicate its release may implicate the proprietary interests of TRC. Accordingly, you notified TRC of the request for information and its right to submit arguments stating why its 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); *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 in certain circumstances). We have reviewed the submitted information.

Initially, we note you have not submitted information regarding the cited violation for our review. To the extent such information existed on the date the city received the request for information, we assume the city has released it. If the city has not released such information, it must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision

No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from TRC. Thus, we have no basis to conclude TRC has 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 the 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. Accordingly, the city may not withhold any of the information at issue on the basis of any proprietary interest TRC may have in the information.

We note a portion of the submitted information contains partial bank account and credit card numbers.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). An access device number is one that may be used to 1) obtain money, goods, services, or another thing of value, or 2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *See id.* § 552.136(a) (defining “access device”). This office has determined a partial bank account number is an access device number for purposes of section 552.136 of the Government Code. The city must withhold the partial bank account and credit card numbers, which we have marked, under section 552.136 of the Government Code. As no further exceptions to disclosure have been raised, 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in cursive script that reads "Jessica Marsh".

Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 454212

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Matthew Knifton
Texas Rowing Center, Inc.
1541 Cesar Chavez
Austin, Texas 78703
(w/o enclosures)