



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 11, 2012

Mr. Eric D. Bentley
Assistant General Counsel
University of Houston System
Office of General Counsel
311 Ezekiel Cullen Building
Houston, Texas 77204-2028

OR2012-08904

Dear Mr. Bentley:

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# 456011.

The University of Houston (the "university") received a request for invoices related to the C.T. Bauer College of Business Executive MBA program's expenditures on textbooks over a specified time. Although you take no position on the public availability of the submitted information, you state the information at issue may implicate the proprietary interests of third parties. Accordingly, you state, and submit documentation showing, you notified CENGAGE Learning, enerdynamics, and Barnes & Noble Bookstores, Inc. of the request for information and of their right to submit arguments to this office as to why the submitted 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 disclosure under certain circumstances). We have reviewed the submitted information.

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 letter, this office has not received comments from any of the third parties explaining why their information should not be released to the requestor. Therefore, because none of the third parties have demonstrated any of the submitted information is proprietary for purposes of the Act, the university may not withhold any of the information on the basis of any interest the third parties may have in the

information. *See id.* § 552.110(a)-(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would result from disclosure); 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, 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.

We note section 552.136(b) of the Government Code provides “[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.”¹ Gov’t Code § 552.136(b); *see id.* 552.136(a) (defining “access device”). Thus, the university must withhold the information we have marked pursuant to section 552.136 of the Government Code.

In summary, the university must withhold the information we 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 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,



Charles Galindo Jr.
Assistant Attorney General
Open Records Division

CG/bs

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).

Ref: ID# 456011

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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