



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 17, 2012

Ms. Allison Bastian  
Assistant City Attorney  
City of Brownsville  
1001 East Elizabeth Street, Suite 234  
Brownsville, Texas 78520

OR2012-14736

Dear Ms. Bastian:

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# 466230.

The City of Brownsville (the "city") received a request for information pertaining to the proposal and presentation submitted by a named entity in response to a specified request for proposals. You state some information will be released. Although the city takes no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Perdue, Brandon, Fielder, Collins & Mott, LLP ("Perdue"). Accordingly, you provide documentation showing you have notified Perdue of the request and its right to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

We first note 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 Perdue. Thus, we have no basis to conclude Perdue 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 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 Perdue may have in the information.

We next note a portion of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 provides that “[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 also id.* § 552.136(a) (defining “access device number”). This office has determined an insurance policy number is an access device for purposes of section 552.136. The city must withhold the insurance policy number we have marked under section 552.136 of the Government Code. As no exceptions to disclosure are raised for the remaining information, it 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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

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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. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 466230

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Romeo Cantu  
Communications Director  
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.  
400 North McColl, Suite A  
McAllen, Texas 78501  
(w/o enclosures)