



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2012

Mr. Clayton T. Holland
For Austin Community College
Bickerstaff, Heath, Delgado, Acosta, L.L.P.
3711 S. MoPac Expressway, Building One, Suite 300
Austin, Texas 78746

OR2012-20268

Dear Mr. Holland:

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# 473849.

Austin Community College ("ACC"), which you represent, received a request for evaluation and score sheets and the proposal submitted by the winning bidder for a specified request for proposals. You state ACC will release some of the requested information. Although you take no position regarding the public availability of the submitted information, you state the proprietary interests of a third party may be implicated. Accordingly, you notified McCreary, Veselka, Bragg & Allen, P.C. ("MVBA") of the request and of its right to submit arguments to this office explaining why its information should not be released. *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 note that 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 decision, we have not received comments from MVBA. Thus, we find MVBA has not demonstrated that it has a protected proprietary interest in any of its 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, ACC may not withhold any of MVBA's information on the basis of any proprietary interest MVBA may have in the information.

We note the submitted information contains insurance policy numbers. Section 552.136 of the Government Code provides in part 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."¹ See Gov't Code § 552.136(b); see also *id.* § 552.136(a) (defining "access device"). This office has determined that insurance policy numbers are subject to section 552.136. Accordingly, ACC must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

In summary, ACC must withhold the insurance policy numbers 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

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# 473849

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Steven Whigham
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(w/o enclosures)