



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 26, 2013

Ms. Maria Miller
Public Information Officer
Dallas County Community College District
1601 South Lamar, Suite 208
Dallas, Texas 75215-1816

OR2013-14910

Dear Ms. Miller:

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# 497563.

The Dallas County Community College District (the "district") received a request for the overall evaluation scoring summary of all vendors that submitted proposals in response to RFP #12007 and the selected vendor's proposal. Although you take no position as to whether the submitted information is excepted under the Act, you inform us the release of this information may implicate the interests of Texas Guaranteed Student Loan Corporation ("TG"). Accordingly, you notified TG of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from TG. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have not submitted the requested overall evaluation scoring summary of all vendors that submitted proposals in response to the specified RFP. To the extent the district maintains information responsive to this part of the request that existed on the date the request was received, we assume the district has released it. If the district has not released any such information, it must do so at this time. *Id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

TG asserts section 552.110(b) of the Government Code for its pricing information. This section excepts from disclosure “[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.” Gov’t Code § 552.110(b). Section 552.110(b) requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the requested information. *See* ORD No. 661 at 5-6 (business enterprise must show by specific factual evidence that release of information would cause it substantial competitive harm).

Having considered TG’s arguments, we find TG has established its pricing information, which we have marked, constitutes commercial or financial information, the release of which would cause TG substantial competitive harm. Therefore, the district must withhold this information under section 552.110(b) of the Government Code.¹

We note portions of the remaining information are subject to section 552.136 of the Government Code.² This section 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.” 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. *See* Open Records Decision No. 684 at 9 (2009). Accordingly, the district must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

TG also claims the submitted information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. *See* Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See id.*; *see also* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district must withhold the information we have marked under section 552.110(b) of the Government Code and the insurance policy numbers we have marked under section 552.136 of the Government Code. The district must release the remaining information, but any information protected by copyright may only be released in accordance with copyright law.

¹As our ruling for this information is dispositive, we need not address TG’s remaining argument against disclosure.

²The 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).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 497563

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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