



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 13, 2009

Ms. Neera Chatterjee
The University of Texas System
Office of the General Counsel
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-03355

Dear Ms. Chatterjee:

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# 337207

The University of Texas System (the "university") received a request for the contract and summary plan description for the current carrier of employee vision care insurance, as well as the proposals submitted, and presentations made, by all carriers that bid for the contract.¹ We note that you have informed the requestor that the university has no information responsive to the requests for information regarding the summary plan description, presentations, and bid proposals that were not accepted.² You claim that a portion of the submitted information is excepted from disclosure under section 552.136 of the Government Code. You do not take a position as to whether the remaining information is excepted under the Act; however, you state that you notified a third party of the university's receipt of the request for information and of the third party's right to submit arguments to this office as to

¹We note that the university asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* Open Records Decision No. 663 (1999) (discussing tolling of deadlines during period in which governmental body is awaiting clarification).

²You state that there were no presentations made in response to this proposal process, and that the bid proposals, other than the proposal pertaining to the winning bidder, have been destroyed in accordance with the university's record retention schedule.

why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 at 3 (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). Superior Vision Services ("Superior") has responded to this notice and argues that portions of the submitted information are excepted under section 552.110 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note that a portion of the submitted information, consisting of Superior's proposal to provide employee vision care insurance, was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2003-3040 (2003). In that decision, because Superior did not submit to this office any arguments against disclosure, we ruled that the university must release Superior's proposal. As we have no indication that the law, facts, or circumstances on which the prior ruling was based have changed, the university must continue to rely on that ruling as a previous determination and release the submitted proposal in accordance with the prior ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We have marked the information subject to the previous determination.³

In regard to the information not subject to a previous determination, you claim that the insurance policy number you have marked is excepted from disclosure under section 552.136 of the Government Code. 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. Accordingly, the university must withhold the insurance policy number you have marked pursuant to section 552.136 of the Government Code.

In summary, (1) the university must continue to rely on Open Records Letter No. 2003-3040 with regard to the proposal submitted by Superior; and (2) the university must withhold the insurance policy number you 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.

³As our ruling is dispositive in regard to the proposal submitted by Superior, we need not address Superior's arguments against disclosure.

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 at (512) 475-2497.

Sincerely,



Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 337207

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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