



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2009

Mr. Scott A. Kelly  
Deputy General Counsel  
Texas A&M University  
200 Technology Way, Suite 2079  
College Station, Texas 77845-3424

OR2009-15295

Dear Mr. Kelly:

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# 360145.

Texas A&M University-Kingsville (the "university") received a request for the university's current beverage and snack food vending contracts.<sup>1</sup> Although you raise no exceptions to disclosure of the submitted information, you state release of this information may implicate the proprietary interests of Coca-Cola Enterprises Bottling Companies ("Coca-Cola") and Oneta Company ("Oneta"). Thus, pursuant to section 552.305 of the Government Code, you have notified Coca-Cola and Oneta of this request for information and of their right to submit arguments to this office explaining why the submitted information should not be released. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested

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<sup>1</sup>You inform us that the request for information was sent by e-mail to the university's purchasing department on August 7, 2009, but was not received by the university's officer of public information or his designee until August 12, 2009. *See Gov't Code § 552.301(c)* (procedural deadlines under section 552.301 for requests sent by electronic mail triggered when officer for public information receives request).

third party to raise and explain applicability of exception to disclosure under in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of a governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from Coca-Cola or Oneta. We thus have no basis for concluding that any portion of the submitted information constitutes proprietary information of these companies, and the university may not withhold any portion of the submitted information on that basis. *See id.* § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence that release of requested information would cause that party substantial competitive harm).

We note, however, a portion of the submitted information is subject to section 552.136 of the Government Code.<sup>2</sup> Section 552.136 states 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. Upon review, we determine the insurance policy numbers we have marked constitute access device numbers for purposes of section 552.136. Therefore, the university must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The remaining information must be released to the requestor.<sup>3</sup>

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

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<sup>2</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).

<sup>3</sup>We note that the submitted information contains social security numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 360145

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

c: Mr. Charlie Stauffer  
Coca-Cola Enterprises Bottling Companies  
3012 Industrial Terrace  
Austin, Texas 78758  
(w/o enclosures)

Mr. Kurla Koch  
Oneta Company  
1401 South Padre Island  
Corpus Christi, Texas 78415  
(w/o enclosures)