



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 29, 2010

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

OR2010-01435

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# 368738.

The Dallas County Community College District (the "district") received a request for two specified bid proposals and responses. Although you take no position regarding the public availability of the submitted information, you state the release of the information may implicate the rights of the third parties whose information has been requested. You state, and provide documentation showing, that you have notified the interested third parties of their right to submit arguments to this office as to why their submitted information should not be released.¹ *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.

Initially, we note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it 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 correspondence from any of the third parties explaining why their information should not be released. Thus, we have no basis for concluding that any portion of the submitted information pertaining to these third parties constitutes proprietary information, and the commission may not withhold any portion of the submitted information on that basis. *See* Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or

¹The third parties are: TracSystems, Inc.; Danka Office Imaging Company; Blackboard, Inc.; ImageNet Office Systems; Oce Business Services; Imagistics International, Inc.; College Management Solutions, Inc.; Datamax; the Stewart Organization; Xerox; IKON Office Solutions, Inc.; Denitech Corporation; Technifax Office Solutions; Southwest Office Systems, Inc.; Dahill Industries; and Konica Minolta Business Solutions.

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.

Next, we note the submitted information contains insurance policy numbers subject to section 552.136 of the Government Code.² 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). The district must withhold the insurance policy numbers we have marked pursuant to section 552.136 of the Government Code.³

Finally, we note that portions of the submitted information are 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* Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of materials that are subject to copyright protection unless an exception applies to the information. *Id.* 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. *See* Open Records Decision No. 550 (1990).

In summary, the district must withhold the information we have marked under section 552.136 of the Government Code. The remaining information must be released; however, in releasing the information that is copyrighted, the district must comply with applicable copyright law.

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

²The Office of the Attorney General will raise a mandatory exception like section 552.136 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 368738

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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Danka
4949 West Royal Lane
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(w/o enclosures)

Mr. Larry Kleuser
Oce Business Services
855 Avenue of the Americas
New York, New York 10001
(w/o enclosures)

Mr. Ed Jensen
Ms. Kim Bollinger
ImageNet Office Systems
3223 B Commander Drive
Carrollton, Texas 75006
(w/o enclosures)

Mr. Mike King
Mr. David Carothers
Imagistics International Inc.
8304 Esters Boulevard, Suite 860
Irving, Texas 75063
(w/o enclosures)

Mr. Jeffrey Libby
TracSystems, Inc.
4620 Sunbelt Drive
Addison, Texas 75001
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Mr. Al Coalla
CMS, Inc.
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Ms. Sharon Umhoefer
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