



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 9, 2010

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

OR2010-05055

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# 376822.

The University of Texas at Arlington (the "university") received a request for information related to the Mav Express Program contract between the university and Wells Fargo Bank, including "[a]ll cost and technical proposals submitted[.]" Although you take no position on whether the information at issue is excepted from disclosure, you state its release may implicate the proprietary interests of certain third parties. You inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the university has notified the interested third parties of the request and of their right to submit arguments to this office explaining why their information should not be released.¹ See Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body

¹The interested third parties are Bank One, Frost Bank, Wells Fargo Bank, and JP Morgan Chase Bank.

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

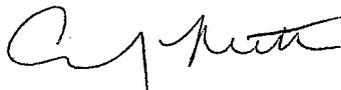
An interested third party is allowed ten business days from the date of its receipt of the governmental body's notice under section 552.305 of the Government Code to submit its reasons, if any, as to why information relating to the third party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, this office has received no correspondence from any of the third parties. Thus, because these third parties have not demonstrated that any of the submitted information is proprietary for the purposes of the Act, the university may not withhold any of the information on that basis. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

We note that some of the submitted information appears to be 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. Attorney General Opinion JM-672. A governmental body must allow inspection of copyrighted materials 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). Therefore, the submitted information must be released to the requestor, but any information that is protected by copyright may only be released in accordance with 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 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 376822

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)

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Frost Bank
777 Main Street, Suite 100
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(w/o enclosures)

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