



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 2, 2011

Mr. James R. Lindley
General Counsel
Central Texas College
P.O. Box 1800
Killeen, Texas 76540-1800

OR2011-11093

Dear Mr. Lindley:

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# 426202.

Central Texas College (the "college") received a request for the winning bid for the college's depository services. Although you take no position on the public availability of the requested information, you believe the information at issue may implicate the proprietary interests of Bank of America Merrill Lynch ("BOA"). You inform us the college notified BOA of this request for information and of its right to submit arguments to this office as to why the requested information should not be released.¹ We have reviewed the information you submitted.

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 that 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 BOA. Thus, as BOA has not demonstrated any of the information at issue is proprietary for purposes of the Act, the college may not withhold any of the

¹*See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

submitted information on the basis of any interest BOA may have in the information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 552 at 5 (1990), 661 at 5-6 (1999).

We note the submitted information includes insurance policy numbers. Section 552.136 of the Government Code provides that “[n]otwithstanding any other provision of [the Act], 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.”² Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for the purposes of section 552.136. Therefore, the college must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.³

We also note some of the submitted information appears to be protected by copyright. A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *See* Open Records Decision No. 180 at 3 (1978); *see also* Open Records Decision No. 109 (1975). A custodian of public records also must comply with copyright law, however, and is not required to furnish copies of records that are copyrighted. *See* ORD 180 at 3. A member of the public who wishes to make copies of copyrighted materials 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 college must withhold the marked insurance policy numbers under section 552.136 of the Government Code. The rest of the submitted information must be released, but any copyrighted information may only be released in compliance 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.

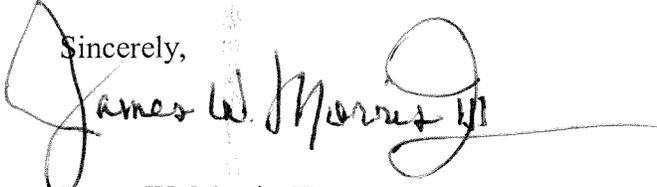
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free,

²This office will raise section 552.136 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

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

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,

A handwritten signature in black ink that reads "James W. Morris, III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 426202

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Ms. Kathaleen Ford Smith
Bank of America, N.A.
515 Congress Avenue Suite 1100
Austin, Texas 78701
(w/o enclosures)