



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 8, 2013

Ms. Rebecca Ruffino
Assistant to the Executive Administrator of External Affairs
Blinn College
902 College Avenue
Brenham, Texas 77833

OR2013-00467

Dear Ms. Ruffino:

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# 475462.

Blinn College (the "college") received a request for all responses to RFP# 108. Although you claim no exceptions to disclosure of the submitted information, you state its release may implicate the proprietary interests of Panopto, Inc. ("Panopto"). Accordingly, you notified Panopto of the request and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). We have reviewed the submitted information.

Initially, you state and we agree, most of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-15275 (2012). In that ruling, this office ruled the college must withhold certain information under section 552.110 of the Government Code, but any information protected by copyright may only be released in accordance with copyright law. As we have no indication that the law, facts, and circumstances on which this prior ruling was based have changed, the college must continue to rely on the prior ruling as a previous determination and withhold or release the information we have previously ruled on in accordance with Open Records Letter No. 2012-15275.¹ *See* Open Records Decision No. 673 (2001) (so long as

¹We note, however, that the proposal of the requestor's company was at issue in Open Records Letter No. 2012-15275. The requestor has a right of access to his own company's proposal.

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). However, because the submitted information is not encompassed by the previous determination, we will consider the submitted information.

Next, we note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice 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, we have not received correspondence from Panopto. Therefore, we have no basis to conclude Panopto has protected a proprietary interest in the submitted information. *See id.* § 552.110(a)-(b); Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or 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. Accordingly, the college may not withhold the submitted information on the basis of any proprietary interests Panopto may have in the information. As no exceptions to disclosure are raised, the submitted 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.

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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a long horizontal line extending to the right.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 475462

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Maggie Ferris
Panopto, Inc.
1417 East Carson Street, 2nd Floor
Pittsburgh, Pennsylvania 15203
(w/o enclosures)