



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 4, 2013

Mr. Fred J. Scott  
Vice President Administrative Services  
Chief Financial Officer  
Brazosport College  
500 College Drive  
Lake Jackson, Texas 77566

OR2013-20989

Dear Mr. Scott:

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# 507425.

The Brazosport College (the "college") received a request for the custodial contract between the college and McLemore Building Maintenance ("McLemore"), scoring grid, and proposals submitted by ABM Janitorial Services ("ABM"), GCA Services Group ("GCA"), McLemore, and Varsity Facility Maintenance ("Varsity"). You state the college has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified ABM, GCA, McLemore, and Varsity of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *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 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 information relating to that party should be withheld from public disclosure. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this letter, we have not received

comments from ABM, GCA, McLemore, or Varsity explaining why their information should not be released. Therefore, we have no basis to conclude ABM, GCA, McLemore, or Varsity have a protected proprietary interest in the submitted information. *See id.* § 552.110; 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 any of the information at issue on the basis of any proprietary interests ABM, GCA, McLemore, or Varsity may have in it.

We note some of the submitted information is subject to section 552.136 of the Government Code.<sup>1</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. This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. Accordingly, we find the college must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code.

We note some of the materials at issue may 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. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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.

In summary, the college must withhold the information we have marked under section 552.136 of the Government Code. The remaining information must be released, but any information subject to 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.

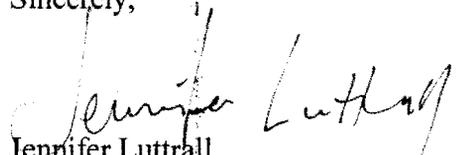
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

  
Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/som

Ref: ID# 507425

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Joseph Scully  
GCA Services Group  
11651 Plano Road #200  
Dallas, Texas 75243  
(w/o enclosures)

Mr. Quentin Leber  
McLemore Building Maintenance  
6610 Malibu Drive  
Houston, Texas 77092  
(w/o enclosures)

Mr. Michael Franssen  
Varsity Facility Services  
2300 Central Parkway, Suite 1  
Houston, Texas 70092  
(w/o enclosures)

Mr. Chris Moore  
ABM  
2131 Gulf Central Drive  
Houston, Texas 77023  
(w/o enclosures)