



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2014

Ms. Ana Vieira
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2014-08146

Dear Ms. Vieira:

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# 522489 (OGC# 154784).

The University of Texas at Austin (the "university") received a request for bid responses, BAFO responses, and final contracts related to the university's agreement with Workday, Inc. ("Workday"). 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 Oracle America, Inc. ("Oracle") and Workday 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 Workday's information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-04144 (2014). In that ruling, we concluded the university must withhold certain information under section 552.139 of the Government Code; to the extent certain customer reference information is not publicly available on Workday's website, the university must withhold the customer reference information at issue under section 552.110(a) of the Government Code; the university must withhold certain information under section 552.110(b) of the

Government Code; and the university must release the remaining information, but any information subject to copyright may only be released in accordance with copyright law. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the university must continue to rely on Open Records Letter No. 2014-04144 as a previous determination and withhold or release Workday's submitted information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as 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).

Next, 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 Oracle explaining why its information should not be released. Therefore, we have no basis to conclude Oracle has 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 university may not withhold any of the information at issue on the basis of any proprietary interests Oracle may have in it.

We note a portion of the remaining information is subject to section 552.136 of the Government Code.¹ 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 university must withhold the submitted insurance policy numbers 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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

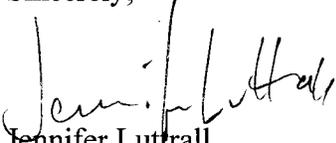
governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the university must continue to rely on Open Records Letter No. 2014-04144 as a previous determination and withhold or release Workday's submitted information in accordance with that ruling. The university must withhold the submitted insurance policy numbers 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, 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 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/akg

Ref: ID# 522489

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Kevin Francis
Workday, Inc.
6230 Stoneridge Mall Road
Pleasanton, California 94588
(w/o enclosures)

Ms. Joanne Olsen
Oracle America
500 Oracle Parkway
Redwood Shores, California 94065
(w/o enclosures)