



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2015

Ms. Melisa E. Meyler
Associate
Thompson & Horton LLP
Phoenix Tower, Suite 2000
3200 Southwest Freeway
Houston, Texas 77027

OR2015-21390

Dear Ms. Meyler:

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# 583061.

Lee College (the "college"), which you represent, received a request for initial and ongoing purchasing costs and legal contracts related to the college's purchase of Civitas Learning, Inc. ("Civitas"), any request for proposal that was issued, and any responses from companies. Although we understand the college takes no position with respect to whether the information at issue is excepted from disclosure, you state its release may implicate the interests of Civitas. Accordingly, you state, and provide documentation demonstrating, the college notified Civitas of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have considered the submitted information.

Initially, we note you have not submitted information responsive to the portions of the request for any request for proposal that was issued and any responses from all responding companies. Thus, to the extent information responsive to these portions of the request

existed on the date the college received the request for information, we presume the college has released it. If not, the college must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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 Civitas explaining why the submitted information should not be released. Therefore, we have no basis to conclude it has protected proprietary interest in the responsive 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, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case information is trade secret), 542 at 3. Accordingly, the college may not withhold the submitted information on the basis of any proprietary interest Civitas may have in the information.

We note some of the submitted information is subject to section 552.136(b) of the Government Code.¹ Section 552.136(b) provides, “[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.” Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the college must withhold the bank account and routing numbers we have marked under section 552.136 of the Government Code. The college must release the remaining information.

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

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *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,

A handwritten signature in cursive script that reads "Nicole Thomas".

Nicole Thomas
Assistant Attorney General
Open Records Division

NT/eb

Ref: ID# 583061

Enc. Submitted documents

c: Requestor
(w/o enclosures)