



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 9, 2015

Mr. R. Brooks Moore  
Managing Counsel, Governance  
The Texas A&M University System  
301 Tarrow Street, Sixth Floor  
College Station, Texas 77840-7896

OR2015-25787

Dear Mr. Moore:

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# 590673 (TAMU 15-790).

Texas A&M University (the "university") received a request for all proposals submitted in response to a specified request for proposals. You state the university will withhold or release some of the requested information in accordance with Open Records Letter No. 2015-18883 (2015).<sup>1</sup> *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination)). 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 RuggedCycles. Accordingly, you state, and provide documentation showing, you notified RuggedCycles of the request for information and of its 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

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<sup>1</sup>In Open Records Letter No. 2015-18883, we determined the university (1) may withhold the information Zagster, Inc. indicated under section 552.104 of the Government Code; (2) must withhold the bank account, bank routing, and insurance policy numbers in the remaining information under section 552.136 of the Government Code; and (3) must release the remaining information, however, any information subject to copyright may be released only in accordance with copyright law.

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.

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 RuggedCycles explaining why its information should not be released. Therefore, we have no basis to conclude RuggedCycles 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 interest RuggedCycles may have in it.

We note some of the submitted information is subject to section 552.136 of the Government Code.<sup>2</sup> Section 552.136 of the Government Code states "Notwithstanding 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"). This office has determined an insurance policy number is an access device number for the purposes of section 552.136. *See* Open Records Decision No. 684 (2009). Upon review, we find the university must withhold the information we have marked under section 552.136 of the Government Code. The remaining 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.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>2</sup>The 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,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 590673

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Ken White  
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103 West Pease  
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(w/o enclosures)