



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 16, 2019

Mr. Dan Curlee
General Counsel
Weatherford College
225 College Park Drive
Weatherford, Texas 76086

OR2019-19275

Dear Mr. Curlee:

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# 775570.

Weatherford College (the "college") received a request for four categories of information pertaining to a specified request for proposals. You state the college has released some information in accordance with Open Records Letter No. 2018-28019 (2018). 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 Jenzabar, Inc. ("Jenzabar").¹ Accordingly, you state, and provide documentation showing, you notified Jenzabar of the request for information and of its right to submit arguments to this office as to why the information at issue 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 received arguments from Jenzabar and reviewed the submitted information.

¹We note the college did not comply with the requirements of section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, we note section 552.136 of the Government Code and the interests of a third-party can provide compelling reasons to overcome the presumption of openness. Accordingly, we will consider their applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

Initially, we note Jenzabar seeks to withhold information not submitted to this office by the college. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the college, this ruling does not address this information and is limited to the information submitted by the college.

Section 552.136(b) of the Government Code states “[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.”² *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has concluded insurance policy numbers constitute access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Thus, the college must withhold the insurance policy numbers in the submitted information under section 552.136 of the Government Code.

We note some of the remaining information 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 insurance policy numbers in the submitted information under section 552.136 of the Government Code. The college must release the remaining information; however, 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

²The 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,

A handwritten signature in black ink that reads "Ashley Crutchfield". The signature is written in a cursive style with a large, decorative flourish at the end.

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/mo

Ref: ID# 775570

Enc. Submitted documents

c: Requestor
(w/o enclosures)