



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 6, 2019

Mr. Augustin Rivera, Jr.
General Counsel
Del Mar College
101 Baldwin Boulevard
Corpus Christi, Texas 78404-3897

OR2019-21593

Dear Mr. Rivera:

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# 779070.

Del Mar College (the "college") received a request for information pertaining to specified contracts.¹ Although you take no position as to whether the requested information is excepted under the Act, you state release of the information may implicate the proprietary interests of GCA Services Group and Maldonado Nursery & Landscaping, Inc. Accordingly, you state, and provide documentation showing, the college notified these third parties of the request for information and of their right to submit arguments to this office as to why the requested 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 must address the procedural obligations of the college under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e)(1)(D), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e)(1)(D). The college received the request for information on April 29, 2019. However, as of the date of this letter, the college has not submitted a copy or representative sample of the requested information. Therefore,

¹We note the college sought clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

the college failed to comply with the procedural requirements mandated by section 552.301(e).

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). 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 you have not provided a copy of the requested information for our review, and neither the college nor the interested third parties have submitted arguments objecting to disclosure of the requested information, we have no basis for finding any of the requested information excepted from disclosure. Thus, we have no choice but to order the college to release the requested information in accordance with section 552.302 of the Government Code.

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,



Meagan J. Conway
Assistant Attorney General
Open Records Division

MC/mo

Ref: ID# 779070

c: Requestor

2 Third Party