



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 10, 2022

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

OR2022-03861

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# 928407 (DMC# 021-0124).

Del Mar College (the "college") received a request for information pertaining to a specified competitive bid process. Although the college takes no position as to whether the submitted information is excepted under the Act, the college states release of the submitted information may implicate the proprietary interests of Summit Construction, LLC ("Summit") and Victory Building Team ("Victory"). Accordingly, the college states, and provides documentation showing, it notified each third party 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 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 comments from Summit. We have reviewed the submitted information and the submitted arguments.

Initially, 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 Victory explaining why the submitted information should not be released. Therefore, we have no basis to conclude Victory has a protected proprietary interest in the submitted information, and the college may not withhold any portion of it on that basis. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception).

Section 552.136 of the Government Code 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.” *Id.* § 552.136(b). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). Upon review, we find section 552.136 is applicable to portions of the submitted information, which we have marked. Accordingly, the college must withhold the access device number we have marked under section 552.136 of the Government Code. However, upon review, we find Summit has failed to demonstrate any of the remaining information at issue consists of access device numbers for purposes of section 552.136. We note an employer identification number (“EIN”) is not an “access device number” for the purposes of section 552.136. The EIN is merely an employer tax identification number. Accordingly, the college may not withhold any portion of the remaining information under section 552.136 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). We note section 552.137(c)(3) states section 552.137(a) does not apply to an e-mail address “contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract.” *Id.* § 552.137(c)(3). Upon review, we find the e-mail addresses included in the remaining information are a type specifically excluded by section 552.137(c) of the Government Code. Therefore, the college may not withhold any of the e-mail addresses at issue under section 552.137 of the Government Code.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. *Id.* § 552.147(a). Upon review, we find the remaining information includes the social security numbers of living individuals. Accordingly, the college may withhold the social security numbers we have marked under section 552.147 of the Government Code.

In summary, the college must withhold the access device numbers we have marked under section 552.136 of the Government Code. The college may withhold the social security numbers we have marked under section 552.147 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Colin Henry  
Attorney  
Open Records Division

CEH/be

Ref: ID# 928407

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)