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AVIATION BOARD MUST MAKE CONTRACT APPLICATIONS PUBLIC

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A state judge on Friday ordered the New Orleans Aviation Board to make public records of the board's program to help economically and socially disadvantaged businesses seeking contracts from the New Orleans International Airport.

The Times-Picayune last month sued the Aviation Board after the board refused to provide records relating to its certification of firms under the airport's Disadvantaged Business Enterprise plan. Under the plan, the Aviation Board has established participation goals and preferences for firms it certifies as disadvantaged.

The Aviation Board's attorney argued that the information in the DBE applications was confidential and therefore exempt from disclosure under the Louisiana Public Records Act. But Jefferson Parish District Court Judge Robert Pitre said that the applications were public records. When they applied to be part of the program, Pitre said, the applicants "put their lives in public view."

Pitre ruled in favor of requiring the Aviation Board to produce the applications, but ruled that certain confidential information need not be included, if exempt by law.

Jim Swanson, an attorney for The Times-Picayune, said the newspaper already had conceded that information covered by statutory exemptions, such as tax returns, is not subject to public review.

"I am pleased that Judge Pitre recognized that these applications are public records and that the public has the right to review them," Swanson said.

The Times-Picayune based its argument on a 1997 Louisiana Supreme Court case, Capital City Press v. East Baton Rouge Metropolitan Parish Council. In that case, a newspaper sought information concerning the hiring of an assistant director by the Metropolitan Airport Authority. Airport officials maintained that applications and resumes of job candidates were confidential. But the Louisiana Supreme Court ruled otherwise, saying that access to public records generally may be denied only "where a law, specifically and unequivocally, provides otherwise ..." The court in that case also ruled that the Legislature had not granted a specific exception for employment applications. The court required the airport to make the documents public.

Rebutting The Times-Picayune's case, Ronald Vega, an attorney for the Aviation Board, asserted that the applications for DBE certification were not employment applications. Rather, Vega said, the applications were requests to be part of a pool of companies that could receive portions of airport contracts -- contracts that would be made public if granted. Furthermore, Vega argued, DBE applications contain personal questions, such as whether the applicant was on food stamps, welfare or had ever been unfairly denied a loan or mortgage.

"It is confidential," Vega said. "It is embarrassing to these people."

Vega also sought to require the newspaper to widen its suit to include as defendants all of the 300 to 400 certified DBEs, on grounds that they should be allowed to protect their interest in the confidentiality of the records. Pitre denied the request.