



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2016

Mr. Renaldo Stowers
Senior Associate General Counsel
University of North Texas System
1155 Union Circle, #310907
Denton, Texas 76203

OR2016-18840

Dear Mr. Stowers:

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# 623386 (UNT PIR No. 004079).

The University of North Texas (the "university") received a request for all policy and procedure manuals of the University of North Texas Police Department (the "department") and operations manuals for specified equipment. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108 and 552.110 of the Government Code and protected by copyright. Additionally, you state the proprietary interests of certain third parties might be implicated. Accordingly, you state you notified the third parties of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have considered your arguments and reviewed the submitted representative sample of information.¹

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The university informs us representative sample A was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-25898 (2015). In Open Records Letter No. 2015-25898, we determined the department may withhold some of the information at issue under section 552.108(b)(1) of the Government Code and must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the university may continue to rely on Open Records Letter No. 2015-25898 as a previous determination and withhold or release representative sample A.² See Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). We will address the university's arguments against release of the remaining information that is not encompassed by Open Records Letter No. 2015-25898.

Although you raise section 552.110 of the Government Code for representative sample B-1, that exception is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address your argument under section 552.110. We also note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. See Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from any third party. Thus, no third party has demonstrated that it has a protected proprietary interest in any of the submitted information. See *id.* § 552.110(a)-(b); 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 portion of representative sample B-1 on the basis of any proprietary interests a third party may have in the information.

You claim representative sample B-1 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 university may continue to rely on Open Records Letter No. 2015-25898 as a previous determination and withhold or release representative sample A in accordance

²As our ruling is dispositive, we need not address the university's remaining arguments against disclosure of representative sample A.

with that ruling. The university must release the remaining information; however, any information protected by 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/dls

Ref: ID# 623386

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)