



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 22, 2017

Ms. Haley Turner
Counsel for the Marble Falls Independent School District
Walsh Gallegos Treviño Russo & Kyle P.C.
505 East Huntland Drive, Suite 600
Austin, Texas 78752

OR2017-05920

Dear Ms. Turner:

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# 649690.

The Marble Falls Independent School District (the "district"), which you represent, received eight requests from two different requestors for specified expenditures and all documents related to a specified complaint. You state the district does not have information related to the specified complaint.¹ We understand you have redacted information under section 552.147(b) of the Government Code.² You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.³ We have also received and considered comments from the requestors. *See* Gov't Code § 552.304

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. Gov't Code § 552.147(b).

³We 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 those records contain substantially different types of information than that submitted to this office.

(permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Initially, we note you have redacted a portion of the submitted information which is not responsive to the instant requests for information. This ruling does not address the public availability of non-responsive information, and the district need not release non-responsive information to the requestors.

Next, we note the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body; [and]

...

(16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege[.]

Id. § 552.022(a)(3), (16). The responsive information consists of expense sheets and check registers related to expenditure of funds by the district that are subject to section 552.022(a)(3) of the Government Code and attorney fee bills that are subject to section 552.022(a)(16) of the Government Code. This information must be released unless it is made confidential under the Act or other law. *See id.* § 552.022(a)(3), (16). Although you seek to withhold the submitted information under section 552.103 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, orig. proceeding) (governmental body may waive section 552.103); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 does not make information confidential for purposes of section 552.022. Therefore, the responsive information may not be withheld under section 552.103. We note portions of the responsive information are subject to section 552.136 of the Government Code which makes information confidential under the Act.⁴ Therefore, we will address the applicability of this exception.

⁴The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 552.136 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.” Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the district must withhold the account numbers in the responsive information under section 552.136 of the Government Code. As no further exceptions to disclosure are raised, the district must release the responsive information.

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/sdk

Ref: ID# 649690

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)