



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2017

Ms. Michelle Buendia
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2017-17570

Dear Ms. Buendia:

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# 670157 (ORR# 2017-08370).

The Dallas Police Department (the "department") received a request for information pertaining to the department's case management system, including contracts, data dictionaries, and manuals. The department claims the requested information is excepted from disclosure under sections 552.104, 552.136, and 552.137 of the Government Code.¹ The department also states, and provides documentation showing, it notified Intergraph Corp. d/b/a/ Hexagon Safety & Infrastructure ("Hexagon") of the department's receipt of the request for information and of Hexagon's 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 at 3 (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). In correspondence to this office, Hexagon objects to the release of the information at issue. We have also received comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why

¹Although the department also raises section 552.101 of the Government Code, it has not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume the department no longer asserts this exception. *See* Gov't Code §§ 552.301, .302.

information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Hexagon states it “does not object to the disclosure of its Master [Services] Agreement[.]” Nevertheless, Hexagon seeks to withhold the remaining types of information that were requested. However, the master services agreement is the only information that the department submitted. This ruling does not address information beyond what the department has submitted to us for review. *See* Gov’t Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information the department submitted as responsive to the request for information. *See id.*

Next, we must address the procedural obligations of the department 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(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov’t Code § 552.301(b). The department informs us it received the request for information on May 15, 2017, and we understand the department was closed for business on May 29, 2017. The department does not inform us it was closed on any other dates. Thus, the department’s ten-business-day deadline to request a ruling was May 30, 2017. However, the envelope containing the request for a ruling from this office is postmarked June 2, 2017. *See* Gov’t Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Therefore, the department failed to comply with the procedural requirements mandated by section 552.301(b).

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 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). Because sections 552.136 and 552.137 can provide compelling reasons to overcome the presumption of openness, we will address the department’s arguments under these sections for the submitted information. However, we find the department has failed to establish a compelling reason to address its remaining exception.

Section 552.136 of the Government Code provides, in part, the following:

- (a) In this section, “access device” means 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:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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(a)-(b). The department must withhold the account numbers we have marked under section 552.136 of the Government Code. However, the department has not explained how any of the remaining information consists of access device numbers used to obtain money, goods, services, or any item of value, or used to initiate the transfer of funds. *See id.* §§ 552.136(a), .301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, the department may not withhold any of the remaining information under section 552.136.

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 does not apply to an e-mail address “provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent [.]” *See id.* § 552.137(c)(1). The e-mail addresses that the department has marked under section 552.137 are subject to subsection 552.137(c)(1). Therefore, the department may not withhold these e-mail addresses under section 552.137.

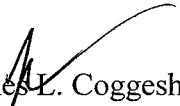
To conclude, the department must withhold the information we have marked under section 552.136 of the Government Code. The department must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 670157

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)