



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 14, 2019

Ms. Jocelyn Durand
Director Communications & Community Partnerships
Boerne Independent School District
235 Johns Road
Boerne, Texas 78006

OR2019-01042

Dear Ms. Durand:

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# 743358.

The Boerne Independent School District (the "district") received a request for certain information pertaining to the district's investments, including any contracts, invoices, presentations, proposals submitted to the district, scoring documents, and financial statements. You have not submitted arguments or a brief to our office; thus, we understand you take no position with respect to whether the submitted information excepted from disclosure. We note third party interests may be at issue. We have reviewed the submitted information.

Initially, we note you have not submitted the requested proposals or scoring documents to this office for our review. To the extent this information existed and was maintained by the district on the date it received the request for information, we presume the district has released it. If not, the district must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

Next, we must address the district's procedural obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Section

552.301(b) requires that a governmental body 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). Further, pursuant to section 552.301(e) of the Government Code, a governmental body is required to submit to this office within fifteen business days of receiving an open records request: (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.* § 552.301(e). We note the district received the instant request for information on October 5, 2018. You do not inform us the district was closed for business on any of the days at issue. Accordingly, the district's ten- and fifteen-business-day deadlines were October 19, 2018, and October 26, 2018, respectively. However, as of the date of this letter, you have not stated any exceptions that apply to the submitted information, nor have you submitted written comments stating the reasons why the claimed exceptions apply. Consequently, we find the district failed to comply with the requirements of section 552.301 in requesting this decision from our office.

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, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although the district submitted information to our office, as discussed above, you have not submitted any arguments against disclosure. However, we note the documents contain information subject to section 552.136 of the Government Code, which can provide a compelling reason to overcome the presumption of openness.¹ Thus, we will address the applicability of section 552.136 for the submitted information.

Section 552.136 of the Government Code states, “[n]otwithstanding 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(b); *see also id.* § 552.136(a) (defining “access device”). Accordingly, the district must withhold the bank account and bank routing numbers we marked under section 552.136 of the Government Code. As you raise no other argument against disclosure, the district must release the remaining information.

¹The 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).*

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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a large, prominent "C" at the beginning.

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/mo

Ref: ID# 743358

Enc. Submitted documents

c: Requestor
(w/o enclosures)