



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 29, 2019

Ms. Katheryne Ellison
Assistant General Counsel
Houston Independent School District
4400 West 18th Street
Houston, Texas 77092-8501

OR2019-08550

Dear Ms. Ellison:

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# 756181 (Reference No. C010919).

The Houston Independent School District (the "district") received a request for the results of a specified request for proposals, including scoring information. You claim the requested information is excepted from disclosure under sections 552.101 through 552.154 of the Government Code.¹ We have considered the claimed exceptions.

Initially, we note some or all of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2018-17763 (2018). In that ruling, we determined the district may withhold the submitted information under section 552.104(a) of the Government Code. Accordingly, to the extent the law, facts, or circumstances on which the prior ruling was based has not changed, the district may continue to rely on Open Records Letter No. 2018-17763 as a previous determination and withhold the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists

¹We note, although you also raise section 552.022 of the Government Code, section 552.022 is not an exception to disclosure. Rather, section 552.022 enumerates categories of information that are not excepted from disclosure unless they are made confidential under the Act or other law. *See* Gov't Code § 552.022.

where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). To the extent the requested information is not identical or the law, facts, or circumstances on which the prior ruling was based has changed, we address your arguments against disclosure.

Next, we must address the district's procedural obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(e), 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 stated 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. *See id.* § 552.301(e). As of the date of this letter, the district has not submitted for our review comments stating why the claimed exceptions apply or a copy or representative sample of the requested information. Consequently, we conclude the district failed to comply with the procedural requirements mandated by section 552.301(e) of the Government Code.

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 raises exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code.

In summary, to the extent the law, facts, or circumstances on which the prior ruling was based has not changed, the district may continue to rely on Open Records Letter No. 2018-17763 as a previous determination and withhold the identical information in accordance with that ruling. To the extent the requested information is not identical or the law, facts, or circumstances has changed, the district must release the requested information pursuant to section 552.302 of the Government Code.

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, appearing to read "James M. Graham". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 756181

c: Requestor