



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2020

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

OR2020-01623

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# 805996 (File No. Mitchell M102219).

The Houston Independent School District (the "district") received a request for information related to a specified request for proposals.¹ You claim the submitted information is excepted from disclosure under sections 552.101 through 552.154 of the Government Code. We have considered the exceptions you claim.

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 have 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 where requested information is precisely same information as was

¹ We note the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

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 have changed, we address your arguments against disclosure.

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. Pursuant to section 552.301(e), a governmental body must 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* Gov't Code § 552.301(e). The district received the request at issue on October 22, 2019. However, as of the date of this letter, you have not submitted written comments stating the reasons why the claimed exceptions apply or a copy or representative samples of the specific information requested. Consequently, we find the district failed to comply with the requirements of section 552.301(e) in requesting this decision from our office.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists 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, 381-82 (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.

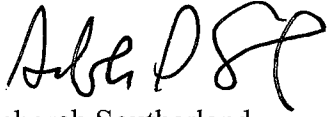
In summary, to the extent the law, facts, or circumstances on which the prior ruling was based have not changed, the district may continue to rely on Open Records Letter No. 2018-17763 as a previous determination and withhold the identical information in accordance with that ruling. To the extent the requested information is not identical or the law, facts, or circumstances have 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 <https://www.texasattorneygeneral.gov/open->

government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Southerland". The signature is fluid and cursive, with the first name being more prominent.

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/mo

Ref: ID# 805996

c: Requestor