



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 11, 2020

Ms. Cristina C. Doss
Senior Assistant General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2020-04094

Dear Ms. Doss:

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# 811429 (ORR# W004540-111219).

The Dallas Area Rapid Transit ("DART") received a request for a specified contract. Although DART takes no position as to whether the submitted information is excepted under the Act, DART states release of the submitted information may implicate the proprietary interests of Stadler US, Inc. ("Stadler"). Accordingly, DART states, and provides documentation showing, it notified Stadler of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (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). We have reviewed the submitted information.

Initially, we note some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2019-24410 (2019). We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, DART must continue to rely on Open Records Letter No. 2019-24410 as a previous determination and withhold or release the information at issue in accordance with this ruling. *See* Open Records Decision No. 673 (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 addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons,

if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Stadler explaining why the remaining information should not be released. Therefore, we have no basis to conclude Stadler has a protected proprietary interest in the remaining information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, DART may not withhold the remaining information on the basis of any proprietary interest Stadler may have in the information.

In summary, DART must continue to rely on Open Records Letter No. 2019-24410 as a previous determination and withhold or release the information at issue in accordance with this ruling. DART 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 <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,



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/rm

Ref: ID# 811429

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)