



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 14, 2020

Mr. Matthew Entsminger  
Assistant county Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2020-10860

Dear Mr. Entsminger:

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# 821898.

The Travis County Purchasing Office (the "purchasing office") received two requests from different requestors for the bid tabulation pertaining to a specified contract. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of NetSync; Red River; and World Wide Technology. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 received arguments from Red River. We have considered the submitted arguments and reviewed the submitted information.

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) of the Government Code 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 the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude those parties have protected proprietary interests in the submitted 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, the purchasing office may not withhold any portion of the submitted information related to those third parties on the basis of any proprietary interest they may have in the information.

Next, we note Red River seeks to withhold information not submitted to this office by the purchasing office. By statute, this office may only rule on the public availability of information submitted by the governmental body requesting the ruling. See Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested). Because this information was not submitted by the purchasing office, this ruling does not address this information and is limited to the information submitted as responsive by the purchasing office.<sup>1</sup>

Section 552.110(c) of the Government Code states:

(c) Except as provided by Section 552.0222, commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is [excepted from required disclosure].

Gov't Code § 552.110(c). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.110 does not apply. See *id.* § 552.0222(b). Red River argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find Red River has demonstrated portions of the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the purchasing office must withhold the information we marked under section 552.110(c). However, we find the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110(c). The purchasing office 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

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<sup>1</sup> As we are able to make this determination, we need not address Red River's argument against disclosure of this information.

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,

Ashley Crutchfield  
Assistant Attorney General  
Open Records Division

AC/rlm

Ref: ID# 821898

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

5 Third Parties  
(w/o enclosures)