



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 1, 2020

Mr. Kenneth Spears  
Assistant Criminal District Attorney  
Tarrant County Criminal District Attorney's Office  
401 West Belknap, 9<sup>th</sup> Floor  
Fort Worth, Texas 76196-0201

OR2020-16808

Dear Mr. Spears:

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# 834541.

The Tarrant County Purchasing Department (the "department") received two requests from different requestors for information pertaining to a specified request for proposals ("RFP"). Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of LexisNexis VitalChek Network, Inc. ("VitalChek"), and Permitium, LLC ("Permitium"). Accordingly, you state, and provide documentation showing, you notified VitalChek and Permitium of the request and their right to submit arguments to this office. *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 the second requestor seeks only certain information pertaining to VitalChek in response to the specified RFP. Thus, Permitium's information is not responsive to the second request, and the department is not required to release that information to the second requestor.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from either interested third party. Thus, we have no basis to conclude either interested third party has a protected proprietary interest

in the submitted information. *See, e.g., id.* § 552.110(a)-(b) (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the department may not withhold any of the submitted information on the basis of any proprietary interest either interested third party may have in the submitted information.

We note some of the submitted information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no exceptions against disclosure were raised, the department must release the submitted information; however, any information subject to copyright may only be released in accordance with copyright law.

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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/rm

Ref: ID# 834541

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)