



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 2, 2020

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

OR2020-27417

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# 852216.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to the denial of employment of a named individual. Although the sheriff's office takes no position as to whether the submitted information is excepted under the Act, the sheriff's office states release of the submitted information may implicate the proprietary interests of Performance Assessment Network, Inc. and the University of Minnesota. Accordingly, the sheriff's office states, and provides documentation showing, it notified each third party of the request for information and of its 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.

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 either third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude either third party has a protected proprietary interest in the submitted information, and the sheriff's office may not withhold any portion of it on that basis. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception).

We note some of the materials at issue may 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. Accordingly, the sheriff's office must release the submitted information; however, any information that is subject to copyright may be released only in accordance with copyright law.¹

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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 852216

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)

¹ We note the requestor has a right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the sheriff's office receives another request for the same information from a different requestor, the sheriff's office must again seek a decision from this office.