



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 5, 2020

Mr. R. Brooks Moore  
Deputy General Counsel  
Texas A&M University System  
301 Tarrow Street, 6<sup>th</sup> Floor  
College Station, Texas 77840-7896

OR2020-27862

Dear Mr. Moore:

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# 852697 (Ref. No. D001396).

Texas A&M University (the “university”) received a request for two specified contracts.<sup>1</sup> Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Callan Marine, Ltd. (“Callan”). Accordingly, you state, and provide documentation showing, you notified Callan of the request and its 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. We have also received and considered comments submitted by the requestor. *See* Gov’t Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we note you have only submitted one of the specified contracts. To the extent the second specified contract existed on the date the university received the request, we assume the university has released it. If the university has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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<sup>1</sup> We note, and you acknowledge, the university did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov’t Code § 552.301(b), (e). Nevertheless, we note, the interests of third parties can provide a compelling reason to overcome the presumption of openness. *See id.* §§ 552.007, .302, .352.

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 info 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 Callan. Thus, we have no basis to conclude a third party has a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Accordingly, the university may not withhold any of the submitted information on the basis of any proprietary interest Callan may have in the information. As we have not received any arguments against the disclosure, the university must release the submitted 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,

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/rm

Ref: ID# 852697

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)