



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 22, 2020

Ms. Claudene Marshall
Assistant General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840-7896

OR2020-32122

Dear Ms. Marshall:

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# 858820 (Ref. No. D002130-092920).

The Texas A&M University System (the "system") received a request for evaluative documents and the proposals submitted by the winning bidders pertaining to a specified request for proposals. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of 3Play Media ("3Play"); Caption Sync; and Verbit. Accordingly, you state, and provide documentation demonstrating, the system notified these interested third parties of the request for information and of their 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 received comments from 3Play. We have considered the submitted argument and reviewed the submitted information.

Initially, 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 of the remaining third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude the remaining third parties have a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the

applicability of the exception). Therefore, the system may not withhold any portion of the submitted information on the basis of any proprietary interest either of the remaining third parties may have in it.

Section 552.1101 of the Government Code provides, in relevant part:

(a) . . . [I]nformation submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

Id. § 552.1101(a). 3Play asserts section 552.1101(a) for some of its information at issue. Upon review, we find 3Play has failed to provide the specific factual evidence necessary to demonstrate the applicability of section 552.1101(a) to the information at issue. Therefore, the system may not withhold any portion of the submitted information under section 552.1101(a) of the Government Code. As no further exceptions have been raised, the system 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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/jxd

Ref: ID# 858820

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 3 Third Parties
(w/o enclosures)