



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 28, 2022

Mr. Gil R. Garcia  
Senior Assistant General Counsel  
Dallas Area Rapid Transit  
P.O. Box 660163  
Dallas, Texas 75266-0163

OR2022-02591

Dear Mr. Garcia:

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# 927338 (DART ORRs W006006-110821 & W006010-110921).

Dallas Area Rapid Transit ("DART") received two requests from different requestors for certain information pertaining to three specified companies. Although DART takes no position as to whether the submitted information is excepted under the Act, DART states release of the submitted information may implicate the proprietary interests of Lincoln Leadership Advisors, LLC; Pearson Partners International, Inc. ("PPI"); and TransPro Consulting, LLC. Accordingly, DART states, and provides documentation showing, it notified each third party of the requests 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 received comments from PPI. We have reviewed the submitted information and the submitted arguments.

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 submitted information should not be released. Therefore, we have no basis to conclude either of the remaining third parties has a protected proprietary interest in the submitted information,

and DART 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).

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

(a) Except as provided by Section 552.0222, information 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.

(b) The exception to disclosure provided by Subsection (a) does not apply to:

(1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; or

(2) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

*Id.* § 552.1101(a), (b). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.1101(a) does not apply. *See id.* § 552.0222(b). PPI asserts some of its information at issue is subject to section 552.1101(a) and would give

advantage to a competitor. Upon review, we find PPI has demonstrated the applicability of section 552.1101(a) to some of the information at issue. Accordingly, DART must withhold PPI's client information under section 552.1101(a) of the Government Code; however, to the extent the client information is made available to the public by PPI, including but not limited to on its website or social media accounts, it may not be withheld under 552.1101(a). Nevertheless, we find portions of the remaining information at issue are subject to sections 552.0222(b) and 552.1101(b) of the Government Code and may not be withheld on the basis of section 552.1101(a). *See id.* §§ 552.0222(b), .1101(b) (listing certain types of information not excepted under section 552.1101). Additionally, we find PPI has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue is subject to section 552.1101(a). Therefore, DART may not withhold any of the remaining information at issue under section 552.1101(a). Consequently, DART 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 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/be

Ref: ID# 927338

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

3 Third Parties  
(w/o enclosures)