



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 17, 2022

Ms. Rebecca Bradley  
Counsel for Plano Independent School District  
Abernathy, Roeder, Boyd & Hullett  
1700 Redbud Boulevard, Suite 300  
McKinney, Texas 75069

OR2022-07908

Dear Ms. Bradley:

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# 934073 (Ref. Nos. 1230 and 1246).

The Plano Independent School District (the "district"), which you represent, received two requests from different requestors for information pertaining to a specified bid. Although the district takes no position as to whether the submitted information is excepted under the Act, the district states release of the submitted information may implicate the proprietary interests of specified third parties. Accordingly, the district states, and provides documentation showing, it notified these third parties of the requests 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 received comments from Edgenuity and Sergeant Laboratories. We have considered the submitted arguments 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 any remaining interested third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude any remaining interested 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 district may not withhold the submitted information on the basis of any proprietary interest any remaining interested third party may have in the information.

Next, we note Sergeant Laboratories argues against the release of information that was not submitted by the district. This ruling does not address information that was not submitted by the district and is limited to the information the district has submitted for our review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

Section 552.110(b) of the Government Code states, “information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” *See id.* § 552.110(b). Section 552.110(a) defines a trade secret as all forms and types of information if:

- (1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and
- (2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

*Id.* § 552.110(a). Section 552.110(c) of the Government Code excepts from disclosure “commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]” *Id.* § 552.110(c). Edgenuity and Sergeant Laboratories argue some of the submitted information consists of commercial or financial information subject to section 552.110(c). Upon review, we find Edgenuity and Sergeant Laboratories have demonstrated some of the information at issue at issue, which we marked, constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the district must withhold the customer information we marked under section 552.110 of the Government Code; however, to the extent the customer information is made available to the public by Edgenuity or Sergeant Laboratories, including, but not limited to, on their respective websites or social media accounts, the marked information may not be withheld under 552.110.<sup>1</sup> Further, we find Sergeant Laboratories has failed to provide specific factual evidence demonstrating its remaining information constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the district may not withhold the remaining information at issue under section 552.110(c) of the Government Code.

Sergeant Laboratories argues its remaining information consists of trade secrets subject to section 552.110(b). Upon review, however, we find Sergeant Laboratories has failed to provide specific factual evidence demonstrating its remaining information is a trade

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<sup>1</sup> In this instance, as our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

secret. Therefore, the district may not withhold the remaining information at issue under section 552.110(b) of the Government Code.

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). Sergeant Laboratories also asserts its remaining information is subject to section 552.1101. However, we find Sergeant Laboratories has failed to provide the specific factual evidence necessary to withhold its remaining information under section 552.1101(a), and district may not withhold it on that basis.

In summary, the district must withhold the customer information we marked under section 552.110(c) of the Government Code but only to the extent this information is not made available to the public by Edgenuity or Sergeant Laboratories, including, but not limited to, on their respective websites or social media accounts. The district 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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/be

Ref: ID# 934073

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)