



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 9, 2022

Ms. Jennifer Burnett
Assistant General Counsel & Public Information Coordinator
The University of Texas System
210 West Seventh Street
Austin, Texas 78701

OR2022-13122

Dear Ms. Burnett:

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# 946752 (OGC# 204373).

The University of Texas System (the "system") received a request for bid proposals and evaluations pertaining to a specified bid. Although the system takes no position as to whether the submitted information is excepted under the Act, the system states release of the submitted information may implicate the proprietary interests of Audio Visual Innovations, Inc.; CCS Presentation Systems; Ford Audio-Video Systems, LLC ("Ford"); RPS Holdings, Inc.; and Whitlock. Accordingly, the system states, and provides documentation showing, it notified these 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 received comments from Ford. We have reviewed the submitted arguments and the submitted information.

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

Next, 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 id.* § 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 system may not withhold the submitted information on the basis of any proprietary interest any remaining interested third party may have in the information.

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.

Id. § 552.1101(a). 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). Ford asserts disclosure of some of its information would reveal an individual approach to work, organizational structure, internal operations, processes, or pricing information, and give advantage to a competitor. Upon review, we find Ford has demonstrated the applicability of section 552.1101(a) to some of its information at issue. Accordingly, the system must withhold the information we have marked under section 552.1101 of the Government Code;

however, to the extent the customer information is made available to the public by Ford, including but not limited to on its website or social media accounts, it may not be withheld under section 552.1101. Additionally, we find the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.1101(a). *See id.* Therefore, the system may not withhold any of the remaining information at issue under section 552.1101(a) of the Government Code.

In summary, the system must withhold the information we have marked under section 552.1101 of the Government Code; however, to the extent the customer information is made available to the public by Ford, including but not limited to on its website or social media accounts, it may not be withheld under section 552.1101 of the Government Code. The system 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,

Katie Stallcup
Assistant Attorney General
Open Records Division

AKS/jxd

Ref: ID# 946752

Enc. Submitted documents

c: Requestor
(w/o enclosures)

5 Third Parties
(w/o enclosures)