



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

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Mr. Andrew Devine
Senior Associate Attorney
Dallas County Hospital District d/b/a Parkland Health & Hospital System
5200 Harry Hines Boulevard
Dallas, Texas 75235

OR2022-14733

Dear Mr. Devine:

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# 949077 (DCHD#22-14).

The Dallas County Hospital District d/b/a Parkland Health & Hospital System (the "system") received a request for a specified contract and a specified bid proposal.¹ You state you will release some of the requested information to the requestor. Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of Inventus, LLC ("Inventus"). Accordingly, you state, and provide documentation showing, you notified Inventus of the requests for information and of the 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 Inventus. We have considered the submitted arguments and reviewed the submitted information.

¹ We note the system asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Section 552.110(b) of the Government Code states, “[e]xcept as provided by [s]ection 552.0222, information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” Gov’t Code § 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 states:

Except as provided by Section 552.0222, 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 is [excepted from required disclosure].

Id. § 552.110(c). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.110 does not apply. *See id.* § 552.0222(b). Section 552.1101 of the Government Code provides, in relevant part, as follows:

(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 contract 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) organization 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.

(a) 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 does not apply. *See id.* § 552.0222(b). Inventus argues portions of its information at issue consists of commercial or financial information subject to section 552.110(c). Upon review, we find Inventus has demonstrated its customer information constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the system must withhold Inventus's customer information under section 552.110(c) of the Government Code; however, to the extent the customer information is made available to the public by Inventus, including but not limited to on its website or social media accounts, it may not be withheld under section 552.110 of the Government Code.² Upon review, however, we find some of the remaining information is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110. In addition, we find Inventus has failed to provide specific factual evidence demonstrating the remaining information at issue is a trade secret or constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the system may not withhold any of the remaining information at issue under section 552.110 of the Government Code.

Inventus asserts portions of the remaining information are subject to section 552.1101(a) and would give advantage to a competitor. However, upon review, we find some of the remaining information at issue is subject to sections 552.0222(b) and 552.1101(b) 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). In addition, we find Inventus has failed to provide specific factual evidence necessary to withhold any of the remaining information at issue under section 552.1101(a), and the system may not withhold it on that basis.

In summary, the system must withhold Inventus's customer information under section 552.110(c) of the Government Code; however, to the extent the customer information is made available to the public by Inventus, including but not limited to on its website or social

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

media accounts, it may not be withheld under section 552.110 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,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/mo

Ref: ID# 949077

c: Requestor

Third Party