



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 23, 2022

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

OR2022-18035

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# 955890 (DART ORR W006373-042022).

Dallas Area Rapid Transit ("DART") received a request for scoring and bid evaluation information and the proposal from the winning bidder for solicitation number P-2068099. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation showing, you notified Soal Technologies ("Soal") of the request 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 Soal. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you only submitted the proposal from the winning bidder for our review. Thus, to the extent any information responsive to the request for scoring and bid evaluation information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

We note Soal asserts exceptions to the required public disclosure of information DART has not submitted for our review. This ruling does not address information beyond what DART has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information DART submitted as responsive to the request for information. *See id.*

Section 552.110(c) of the Government Code states:

(c) 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). SOAL argues some of its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find SOAL has demonstrated portions of the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, DART must withhold the information we marked under section 552.110(c) of the Government Code; however, to the extent the customer information at issue is made available to the public by Soal, including but not limited to on its website or social media accounts, it may not be withheld under section 552.110(c).<sup>1</sup> However, we find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110(c). Additionally, we find Soal has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, DART may not withhold any of the remaining information at issue under section 552.110(c) of the Government Code.

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.” *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.

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<sup>1</sup> As our ruling on this information is dispositive, we need not address the remaining argument against disclosure of this information.

*Id.* § 552.110(a). 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). Soal argues some of its information consists of trade secrets subject to section 552.110(b). Upon review, we find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110(b). Additionally, we find Soal has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue is a trade secret. Therefore, DART may not withhold any of the remaining information at issue under section 552.110(b) of the Government Code.

In summary, DART must withhold the information we marked under section 552.110(c) of the Government Code; however, to the extent the customer information at issue is made available to the public by Soal, including but not limited to on its website or social media accounts, it may not be withheld under section 552.110(c). 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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/be

Ref: ID# 955890

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

1 Third party  
(w/o enclosures)