



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 25, 2022

Ms. Elizabeth G. Neally
Counsel for the Harlingen Consolidated Independent School District
Walsh, Gallegos, Treviño, Russo, & Kyle P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2022-21813

Dear Ms. Neally:

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# 963075.

The Harlingen Consolidated Independent School District (the "district"), which you represent, received a request for a specified proposal submitted in response to a specified request for proposals.¹ You state you have released some information. You state you will withhold certain information pursuant to section 552.136 of the Government Code and Open Records Decision No. 684 (2009).² Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Linebarger Googan Blair & Sampson

¹ We note you did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, third party interests can provide a compelling reason to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302; Open Records Decision No. 150 at 2 (1997).

² Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including access device numbers under section 552.136, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.136 to allow a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Thus, the statutory amendments to section 552.136 of the Government Code superceded Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to section 552.136(b) in accordance with section 552.136, not Open Records Decision No. 684.

LLP (“Linebarger”). Accordingly, you state, and provide documentation showing, you notified Linebarger 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 Linebarger. We have considered the submitted arguments and reviewed the submitted information.

Linebarger raises section 552.110 of the Government Code for some of its information. Section 552.110(c) provides:

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].

Gov’t Code § 552.110(c). Upon review, we find Linebarger demonstrated some of its information at issue, including its client information, constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the district 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 Linebarger, including but not limited to on its website or social media accounts, such information may not be withheld under section 552.110. 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,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/be

Ref: ID# 963075

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)