



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2022

Ms. Sarah Flournoy
Counsel for the Eagle Mountain-Saginaw Independent School District
Brackett & Ellis, P.C.
100 Main Street
Fort Worth, Texas 76102-3090

OR2022-22429

Dear Ms. Flournoy:

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# 961158.

The Eagle Mountain-Saginaw Independent School District (the "district"), which you represent, received a request for all bids related to seven specified projects. You claim that the request is not valid because the requestor is anonymous. Further, you state release of this information may implicate the proprietary interests of Fisher Tracks, Inc.; Hellas Construction, Inc.; and Paragon Sports Constructors. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 considered the submitted arguments and reviewed the submitted information.

You assert that pursuant to section 552.222(a) of the Government Code, the city is not required to provide the requested information until the requestor provides proper identification. Section 552.222 of the Government Code provides:

(a) The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b) or (c).

(b) If what information is request is unclear to the governmental body, the governmental body may ask the request to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used..

(c) If the information requested related to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information[.]

Gov't Code § 552.222. Since a special right of access to information exists in some circumstances that requires that a requestor establish proper identification, the only permissible inquiry a governmental body may make of a requestor under the Act is to establish proper identification. *See id.* § 552.222(a); *See, e.g., id.* § 552.023 (person or person's authorized representative has special right of access to information relating to person and protected from public disclosure by laws intended to protect that person's privacy interests). However, the identity of the requestor is generally not a factor to be considered when a governmental body receives an open record request. *See id.* § 552.223 (requiring uniform treatment of all open records requests). *But see id.* § 552.028 (governmental body not required to accept or comply with request for information from an individual who is imprisoned or confined in a correctional facility, or an agent of the individual other than that individual's attorney). You have not explained, nor can we discern from the submitted information, the reason identification would be necessary in this instance. Furthermore, failure to provide identification under section 552.222 is not grounds for a governmental body to refuse to respond to a request for public information. *See id.* § 552.222. Accordingly, you may not withhold the submitted information on the basis of section 552.222.

You argue that the requestor's identity is required in order to allow the district to determine whether a particular open records request requires large amounts of employee or personnel time. *See id.* § 552.275 (outlining procedures governmental body may follow for requests that require large amounts of employee or personnel time). You further argue that the requestor's identity is required in order for the district to charge for providing copies of public information. *See id.* § 552.261 (outlining procedures governmental may follow to charge for providing copies of public information). Your arguments are based on provisions found in subchapter F of the Act, which pertains to the cost and method of producing public information in response to a request. These administrative provisions are not a basis for withholding information under the Act. As you have not raised any exceptions to disclosure, the district may not withhold the submitted information on this basis.

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 third party explaining why the submitted information should not be released. Therefore, we have no basis to conclude any 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 third party may have in the information. The district must release the submitted 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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/jxd

Ref: ID# 961158

c: Requestor

3 Third Parties