



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2022

Ms. Erin J. Onyon
Director of Public Records & Transparency Compliance
City of Mansfield
1200 East Broad Street
Mansfield, Texas 76063

OR2022-24511

Dear Ms. Onyon:

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# 962844 (Reference No. 0322-2022).

The City of Mansfield (the "city") received a request for certain information pertaining to a specified request for proposals.¹ Although the city takes no position regarding whether the submitted information is excepted from disclosure under the Act, the city informs us its release may implicate the proprietary interests of Tyler Technologies, Inc. ("Tyler") and UKG, Inc. Accordingly, the city 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.² *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990)

¹ You state, and provide documentation demonstrating, the city sought and received clarifications of the information requested. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purposes of clarifying or narrowing request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

² We note the city did not comply with the requirements of section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.136 of

(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 claimed exception and reviewed the submitted information, a portion of which consists of a representative sample.³

Initially, 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) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have received comments from only Tyler explaining why the information at issue should not be released. Thus, we have no basis to conclude the remaining 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). Therefore, the city may not withhold the submitted information on the basis of any proprietary interest the remaining third party may have in the information.

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.

Id. § 552.110(a). Section 552.110(c) of the Government Code states:

the Government Code and third-party interests can provide compelling reasons to overcome the presumption of openness, we will consider the applicability of section 552.136 and whether the information at issue is excepted from disclosure under the Act based on third-party interests, notwithstanding the city's violation of section 552.301 in requesting this ruling. *See id.* §§ 552.007, .302; Open Records Decision No. 150 at 2 (1977). The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³ We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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). Tyler argues some of its information consists of trade secrets subject to section 552.110(b) and commercial or financial information subject to section 552.110(c). Upon review, we find Tyler has demonstrated portions of the information at issue constitute trade secrets. Accordingly, the city must withhold the information we marked and indicated under section 552.110(b) of the Government Code; however, to the extent the client information pertaining to Tyler is made available to the public, including but not limited to on the company’s website or social media accounts, it may not be withheld under section 552.110.⁴ However, we find the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110. Therefore, the city may not withhold any of the remaining information at issue under section 552.110 of the Government Code.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See Open Records Decision No. 684 at 9 (2009)*. Accordingly, the city must withhold the insurance policy numbers within the remaining information under section 552.136 of the Government Code.

In summary, the city must withhold the information we marked and indicated under section 552.110(b) of the Government Code; however, to the extent the client information pertaining to Tyler is made available to the public, including but not limited to on the company’s website or social media accounts, it may not be withheld under section 552.110 of the Government Code. The city must withhold the insurance policy numbers within the remaining information under section 552.136 of the Government Code. The city must release the remaining information.

⁴ As our ruling is dispositive, we need not address the remaining argument against disclosure of this 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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/jxd

Ref: ID# 962844

Enc. Submitted documents

c: Requestor
(w/o enclosures)

cc: 2 Third Parties
(w/o enclosures)