



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 17, 2022

Ms. Sarah Reynolds  
Deputy General Counsel/Contract Manager  
ESC Region 8/The Interlocal Purchasing System  
4845 Highway 271 North  
Pittsburg, Texas 75686

OR2022-24520

Dear Ms. Reynolds:

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# 961057.

The Region 8 Education Service Center (the "center") received a request for information pertaining to a specified solicitation.<sup>1</sup> You state you have released some information. Although the center takes no position as to whether the submitted information is excepted under the Act, the center states release of the submitted information may implicate the proprietary interests of specified third parties. Accordingly, you state, and provide documentation showing, the center notified the interested third parties of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released.<sup>2</sup> *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 MasterWord, TIN, and TransPerfect. We have considered the submitted arguments and reviewed the submitted information. We also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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<sup>1</sup> You state the center sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *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 overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup> The center informs us it notified the following third parties: Homeland Languages; Languages Translation Services; MasterWord Services, Inc ("MasterWord"); Telelanguage, Inc.; Translation & Interpretation Network LLC ("TIN"); and TransPerfect.

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) 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 of the remaining third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any remaining 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 center may not withhold the submitted information on the basis of any proprietary interest a remaining third party may have in the information.

Next, we note TIN and TransPerfect argue against the release of information that was not submitted by the center. This ruling does not address information that was not submitted by the university and is limited to the information the center has submitted for our review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

Section 552.110(c) of the Government Code excepts from disclosure “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[.]” *Id.* § 552.110(c). MasterWord, TIN, and TransPerfect argue some of the submitted information consists of commercial or financial information subject to section 552.110(c). Upon review, we find MasterWord and TransPerfect have demonstrated some of the submitted information constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the center must withhold the submitted information pertaining to MasterWord and TransPerfect under section 552.110(c) of the Government Code.<sup>3</sup> However, we find TIN has failed to provide specific factual evidence demonstrating its information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the center may not withhold the remaining information at issue under section 552.110(c) of the Government Code.

Section 552.110(b) of the Government Code states, “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>3</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

*Id.* § 552.110(a). TIN argues some of its information consists of trade secrets subject to section 552.110(b). Upon review, we find TIN has failed to provide specific factual evidence demonstrating any portion of the remaining information at issue is a trade secret. Therefore, the center may not withhold any of the remaining information at issue under section 552.110(b) of the Government Code.

Section 552.1101 of the Government Code provides, in relevant part, as follows:

(a) . . . [I]nformation 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.

*Id.* § 552.1101(a). TIN asserts disclosure of its information would reveal an individual approach to work, organization structure, staffing, internal operations, processes, or pricing, and give advantage to a competitor. Upon review, we find TIN has failed to provide specific factual evidence demonstrating any portion of the remaining information is subject to section 552.1101(a). Therefore, the center may not withhold any of the remaining information under section 552.1101(a).

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.”<sup>4</sup> *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance

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<sup>4</sup> 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).

policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Accordingly, the center must withhold insurance policy numbers under section 552.136 of the Government Code.

We note some of the remaining materials may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the center must withhold the submitted information pertaining to MasterWord and TransPerfect under section 552.110(c) of the Government Code. The center must withhold insurance policy numbers under section 552.136 of the Government Code. The center must release the remaining information; however, any information that is subject to copyright may be released only in accordance with copyright law.

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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/jxd

Ref: 961057

c: Requestor

6 Third Parties