



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 14, 2022

Mr. Stephen Trautmann, Jr.
Counsel for the United Independent School District
Trautmann & Garcia, Attorneys at Law, PLLC
7110 Rocio Drive #13
Laredo, Texas 78041

OR2022-28111

Dear Mr. Trautmann:

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# 969559.

The United Independent School District (the "district"), which you represent, received a request for three categories of information pertaining to specified contracts, invoices, and request for proposal responses. Although the district takes 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 Bills Sparkling City Charter, Inc.; Cougar Bus Lines, Ltd.; Imperial Bus Company, Inc.; Kerrville Bus Company; Longhorn Bus Sales; OK Tours; Regent Coach Line, Ltd. ("Regent"); Roadrunner Charters, Inc.; Rush Bus Centers; Star Shuttle, Inc.; and Tornado Tours, Inc. Accordingly, you state, and provide documentation showing, the district notified each third party of the request for information and of its right to submit arguments to this office as to why the requested 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 Regent. We have considered the submitted arguments.

We must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. In pertinent part, section 552.301(e) requires the governmental body to submit to the attorney general the specific information that the governmental body seeks to withhold, or representative samples if the information is voluminous, not later than the fifteenth business day after the date of the receipt of the request. Gov't Code § 552.301(e)(1). As of the date of this letter,

you have not submitted to this office a copy or representative sample of the information requested. Consequently, we find the district failed to comply with the requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). However, we note third party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301 of the Government Code.

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 requested information relating to it should be withheld from disclosure. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from the remaining third parties explaining why their information should not be released to the requestor. Thus, we have no basis to conclude the release of the requested information would implicate the interests of the remaining third parties, and none of the information at issue may be withheld on that basis. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Additionally, although Regent raises exceptions to disclosure for some of the requested information, because the district has not submitted any of the responsive information, we have no basis for finding the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302 of the Government Code. If the district believes the information may not lawfully be released, it must challenge this ruling in court pursuant to section 552.324 of the Government Code.

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,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jm

Ref: ID# 969559

Enc. Submitted documents

c: Requestor
(w/o enclosures)

11 Third Parties
(w/o enclosures)