



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 20, 2022

Ms. Lyudmyla Agbedanou  
Legal Counsel  
Dallas/Fort Worth Airport Board  
P.O. Box 619428  
Dallas Fort Worth Airport, Texas 75261-9428

OR2022-32363

Dear Ms. Agbedanou:

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# 979343.

The Dallas/Fort Worth Airport Board (the "board") received a request for records and communications related to SITA Information Networking Computing USA Inc. ("SITA"). Although the board takes no position as to whether the submitted information is excepted from disclosure under the Act, you state release of the submitted information may implicate the proprietary interests of SITA. Accordingly, you state, and provide documentation showing, you notified SITA 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 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from SITA. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we note SITA argues against disclosure of information not submitted to this office for review. This ruling does not address information beyond what the board has submitted to us for our review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit a copy of specific information requested). Accordingly,

this ruling is limited to the information the board submitted as responsive to the request for information.

SITA raises section 552.110 of the Government Code for its information at issue. Section 552.110(b) 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:

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). Upon review, we find SITA has demonstrated portions of its information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the board must withhold the information we marked under section 552.110(c) of the Government Code.<sup>1</sup> However, we find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110 of the Government Code. Additionally, we find SITA has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Further, we find SITA has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue is a trade secret. Therefore, the board may not withhold any portion of the remaining information at issue under section 552.110 of the Government Code.

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

(a) Except as provided by Section 552.0222, information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor 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) organizational 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.
- (b) The exception to disclosure provided by Subsection (a) does not apply to:
- (1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; or
  - (2) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

Gov't Code § 552.1101(a), (b). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.1101(a) does not apply. *See id.* § 552.0222(b). Upon review, we find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.1101(a). *See id.* § 552.0222(b). Additionally, we find SITA has failed to provide the specific factual evidence necessary to withhold any of the remaining information under section 552.1101(a), and the board may not withhold it on that basis.

We note some of the materials at issue 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 board must withhold the information we marked under section 552.110(c) of the Government Code. The board 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,

Paige Lay  
Assistant Attorney General  
Open Records Division

PL/mo

Ref: ID# 979343

Enc. Submitted documents

c: Requestor  
(w/o enclosures)