



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 18, 2022

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2022-36187

Dear Mr. Miles:

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# 986266 (HHSC ORR Nos. A08312022.0450016 and A09022022.0450013).

The Texas Health and Human Services Commission (the "commission") received two requests from different requestors for certain information pertaining to a specified request for proposals. You state the commission will release certain information to the requestors. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of Ramsell Corporation ("Ramsell"). Accordingly, you state, and provide documentation demonstrating, the commission notified Ramsell of the requests 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(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 reviewed the submitted information.

Initially, we note the second request is broader than the first request because it seeks all proposals submitted by vendors in response to the request for proposals specified in the requests. Thus, the commission need not release information to the first requestor that is not responsive to her request.

Next, we note the commission has only submitted the winning bidder's proposal in response to the portion of the second request seeking all proposals submitted in response to the request for proposals at issue. To the extent any additional information responsive to the second request existed on the date the commission received it, we assume the commission has already released such information. If the commission has not released any such

information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Ramsell explaining why the information at issue should not be released. Thus, we have no basis to conclude Ramsell has a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the commission may not withhold any portion of the submitted information on the basis of any proprietary interest Ramsell may have in it. As no exceptions to disclosure have been raised, the commission must release the submitted information.¹

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,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/pt

Ref: ID# 986266

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

c: Third Party
(w/o enclosures)

¹ We note the submitted information includes a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).