



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 30, 2022

Ms. Kelly Hill Wilson
Assistant General Counsel
Office of General Counsel
University of Houston System
4302 University Drive, Room 311
Houston, Texas 77204-2028

OR2022-36946

Dear Ms. Wilson:

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# 987592 (ORR# IR07954).

The University of Houston (the "university") received a request for information pertaining to a specified contract. Although you take 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 Compass Group USA, Inc. d/b/a Canteen ("Canteen"). Accordingly, you state, and provide documentation showing, you notified Canteen 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. *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 Canteen. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Canteen argues some of the submitted information is not responsive to the request for information. However, we note the Act requires a governmental body to make a good-faith effort to relate a request to information the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 at 8 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). Because the university has submitted the information at issue for our review, we find it has made a good-faith effort to submit information that is

responsive to the request, and we will address the arguments against disclosure of this information.

Next, we note the submitted information is subject to section 2261.253 of the Government Code. Section 2261.253(a) provides, in relevant part, as follows:

(a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed[.]

Id. § 2261.253(a)(1). The contract at issue is between the university, which is a state agency, and a private vendor for the purchase of services, and is not expired or completed. *See id.* § 2261.002(2) (“state agency” has meaning assigned by Gov’t Code § 2151.002), 2151.002(3) (“state agency” includes university system or institution of higher education as defined by Educ. Code § 61.003). Canteen seeks to withhold the submitted information under sections 552.110 and 552.1101 of the Government Code. However, we note the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). The 85th Legislature amended section 2261.253; pursuant to the amendments, state agencies shall redact from contracts subject to section 2261.253 information that the attorney general determines is excepted from public disclosure under the Act. Gov’t Code § 2261.253(e)(2); *see also id.* § 2261.253(f). The amendments “apply only in relation to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after [September 1, 2017].” Act of May 29, 2017, 85th Leg., R.S., S.B. 533, § 17(c). We note the amendments do not apply to the submitted contracts or amendments because the university first advertised or otherwise solicited bids for these contracts prior to September 1, 2017. Accordingly, the university may not withhold the submitted information under section 552.110 or section 552.1101 of the Government Code. As no further exceptions to disclosure have been raised, the university must release the submitted 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,

Joseph Hoggatt
Assistant Attorney General
Open Records Division

JWH/pt

Ref: ID# 987592

Enc. Submitted documents

c: Requestor
(w/o enclosures)