



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 2, 2022

Mr. Michael Roseberry
General Counsel
Austin Independent School District
4000 South IH-35 Frontage Road
Austin, Texas 78704

OR2022-37200

Dear Mr. Roseberry:

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# 987742.

The Austin Independent School District (the "district") received a request for information pertaining to 22RFP080. 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 Advanced Translation Services; Communication by Hand, LLC; Linguabee; MasterWord Services, Inc. ("MasterWord"); Translation & Interpretation Network ("TIN"); and Zab Translation Services. Accordingly, you state, and provide documentation demonstrating, the district notified these interested third parties of the request for information and of their 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 submitted by MasterWord and TIN. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note some of the submitted information was the subject of previous requests for rulings, as a result of which this office issued Open Records Letter Nos. 2022-18973 (2022) and 2022-(987508/CEH approved but not yet issued) (2022). You state the law, facts, or circumstances on which the prior rulings were based have not changed. Thus, the district must continue to rely on Open Records Letter Nos. 2022-18973 and 2022-(987508) as previous determinations and withhold or release the information at issue in accordance with those rulings.¹ *See* Open Records Decision No. 673 (2001) (so long as law, facts, and

¹ As we are able to make this determination, we need not address the arguments against disclosure of this information.

circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, 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 remaining third party explaining why its information at issue should not be released. Thus, we have no basis to conclude any remaining third party 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 district may not withhold any portion of the submitted information on the basis of any proprietary interest any remaining third party may have in it.

Section 552.110(b) of the Government Code 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 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). TIN argues some of its information consists of trade secrets subject to section 552.110(b) and commercial or financial information subject to section 552.110(c). Upon review, we find TIN has demonstrated portions of the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the district must withhold the information we have marked under section 552.110(c) of the Government Code. However, to the extent any of the customer information TIN seeks to withhold has been made available to the public by TIN, including but not limited to on its website or social media accounts, such information is not confidential under section 552.110.²

² As our ruling is dispositive, we need not address TIN's remaining arguments against disclosure of this information.

Section 552.136(b) 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.”¹ Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the district must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code.

In summary, the district must continue to rely on Open Records Letter Nos. 2022-18973 and 2022-(987508) as previous determinations and withhold or release the information at issue in accordance with those rulings. The district must withhold the information we marked under section 552.110 of the Government Code. The district must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code. The remaining information must be released.

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/pt

Ref: ID# 987742

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹The 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).