



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2010

Ms. Amanda M. Bigbee  
General Counsel  
Keller Independent School District  
350 Keller Parkway  
Keller, Texas 76248

OR2010-00250

Dear Ms. Bigbee:

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# 366686.

The Keller Independent School District (the "district") received two requests from different requestors for documents pertaining to the settlement agreement between the district and ARAMARK Management Services, L.P. ("ARAMARK"). You claim the submitted settlement agreement is excepted from disclosure under section 552.105 of the Government Code. You also state release of the submitted settlement agreement may implicate the proprietary interests of ARAMARK. Accordingly, you state, and have provided documentation showing, the district notified ARAMARK of the request and of its right to submit arguments to this office as to why the submitted settlement agreement should not be released. *See* Gov't Code § 552.305(d); *see also* 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 the applicability of exception to disclose under Act in certain circumstances). Furthermore, you state the district notified an individual of the request and of his right to submit arguments to this office as to why the submitted settlement agreement should not be released.<sup>1</sup> *See* Gov't Code § 552.304 (providing interested party may submit comments stating why information should or should not be released). We have received comments from ARAMARK. We have considered the submitted arguments and reviewed the submitted information.

The submitted information consists of a signed settlement agreement. Section 552.022(a) of the Government Code provides, in part,

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<sup>1</sup>As of the date of this letter, we have not received comments from this individual.

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

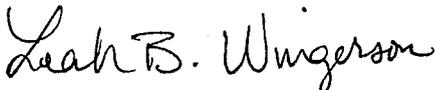
(18) a settlement agreement to which a governmental body is a party.

*Id.* § 552.022(a)(18). In this instance, the submitted signed settlement agreement is subject to section 552.022(a)(18) of the Government Code. Although you seek to withhold the settlement agreement under section 552.105 of the Government Code and ARAMARK claims the settlement agreement is excepted under section 552.103 of the Government Code, those sections are discretionary exceptions to disclosure that protect a governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (section 552.103 may be waived); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 564 (1990) (statutory predecessor to section 552.105 subject to waiver). As such, sections 552.103 and 552.105 do not make information confidential for the purposes of section 552.022. Consequently, the district may not withhold the submitted settlement agreement under section 552.103 or section 552.105 of the Government Code. As no other exceptions to disclosure have been claimed, the submitted settlement agreement 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 [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 366686

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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