



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 24, 2015

Mr. Dan Junell  
Assistant General Counsel  
Teacher Retirement System of Texas  
1000 Red River Street  
Austin, Texas 78701

OR2015-24765

Dear Mr. Junell:

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# 589711 (TRS Ref. No. 16-2).

The Teacher Retirement System of Texas (the "system") received a request for a specified contract. You state the system will redact information pursuant to section 552.136 of the Government Code and Open Records Decision No. 684 (2009).<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Aetna, Inc. ("Aetna").<sup>2</sup> Accordingly, you state, and provide documentation showing, you notified Aetna of the

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<sup>1</sup>Section 552.136(c) authorizes a governmental body to redact the information described in section 552.136(b) without the necessity of seeking an attorney general decision. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>2</sup>We note the system did not comply with the requirements of section 552.301(e) of the Government Code in providing some of the information at issue. *See* Gov't Code § 552.301(e). However, because third-party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301, we will consider whether the information at issue may be withheld on this basis. *See id.* §§ 552.007, .302.

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(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 Aetna. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Aetna argues against the release of information that was not submitted by the system. This ruling does not address information that was not submitted by the system and is limited to the information the system has submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested).

Next, you state some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-05750 (2013). In that ruling, we determined (1) the system must withhold the information we marked under section 552.110 of the Government Code; and (2) the remaining responsive information must be released, however, any information subject to copyright may only be released in accordance with copyright law. We understand there has not been any change in the law, facts, or circumstances on which Open Records Letter No. 2013-05750 was based. Accordingly, we conclude the system must rely on Open Records Letter No. 2013-05750 as a previous determination and withhold or release the identical information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

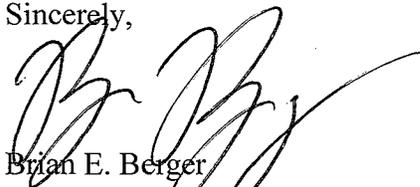
Some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted 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 system must continue to rely on Open Records Letter No. 2013-05750 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. The remaining information must be released; however, any information subject to copyright may only be released 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 589711

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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Aetna  
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Hartford, Connecticut 06156  
(w/o enclosures)