



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 22, 2016

Ms. Sarah W. Langlois  
For Harris County Department of Education  
Rogers, Morris & Grover, L.L.P.  
5718 Westheimer Road, Suite 1200  
Houston, Texas 77057

OR2016-09110

Dear Ms. Langlois:

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# 606704.

The Harris County Department of Education (the "department"), which you represent, received a request for the proposals sent by three named entities in relation to a specific contract. The department claims portions of the submitted information are excepted from disclosure under section 552.110 of the Government Code.<sup>1</sup> Although the department takes no position as to whether the remaining submitted information is excepted under the Act, the department informs us release of this information may implicate the proprietary interests of Metropol Security Services, LLC; Vets Securing America; and Executive Threat Solutions, LLC. Accordingly, the department states, and provides documentation showing, it notified these third parties of the request for information and of their right to submit arguments to this office as to why the information at issue 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 considered the exception the department claims and reviewed the submitted information.

Initially, we note the department has redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled

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<sup>1</sup>Although the department does not specifically raise this section in its briefing to this office, we understand the department to raise this exception based on its markings.

to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue or has statutory authorization to withhold the information without requesting a decision under the Act. *See* Gov't Code § 552.301(a), (e)(1)(D). We understand the department has redacted some of the information pursuant to sections 552.130 and 552.136 of the Government Code.<sup>2</sup> However, the department does not assert, nor does our review of our records indicate, the department is authorized to withhold the remaining redacted information at issue without first seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000) (previous determinations). Therefore, this information must be submitted in a manner that enables this office to determine whether it falls within the scope of an exception to disclosure. However, because we can discern the nature of the remaining redacted information, being deprived of the information does not inhibit our ability to make a ruling. Nonetheless, in the future, the department must not redact information from the information it submits to this office unless it is authorized to do so by statute or the information is the subject of a previous determination under section 552.301 of the Government Code. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See* Gov't Code § 552.302.

Next, the department has marked some of the submitted information as being subject to section 552.110 of the Government Code. We note, however, that section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. *See id.* § 552.110 (excepting from disclosure “[a] trade secret obtained from a person and privileged or confidential by statute or judicial decision” and “[c]ommercial 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”). As stated above, the department notified the third parties of the request for information and of their right to submit arguments explaining why the information at issue should not be released. 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) of the Government Code 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 of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the third parties has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial

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<sup>2</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.136(c) of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 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).

competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret), 542 at 3. Accordingly, the department may not withhold the submitted information on the basis of any proprietary interest any of the third parties may have in the information.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.<sup>3</sup> Gov't Code § 552.1175(b). Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Therefore, if the peace officer whose information is at issue elects to restrict access to his information in accordance with section 552.1175(b), the department must withhold the information we have marked under section 552.1175 of the Government Code. If the peace officer at issue does not elect to restrict access to his information in accordance with section 552.1175(b), the department may not withhold the information we have marked under section 552.1175. As no further exceptions against disclosure have been raised, the department must release the remaining 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 [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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/akg

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<sup>3</sup>The 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).

Ref: ID# 606704

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

3 Third Parties  
(w/o enclosures)