



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2016

Ms. Halfreda Anderson-Nelson
Public Information Officer
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2016-09359

Dear Ms. Anderson-Nelson:

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# 607173 (ORR Nos. W000506-020316 and W000507-020316).

Dallas Area Rapid Transit ("DART") received two requests from the same requestor for information pertaining to retail energy contracts. DART states some information does not exist.¹ We understand DART takes no position as to whether the submitted information is excepted under the Act.² However, DART informs us release of this information may implicate the interests of the Texas General Land Office (the "GLO").³ Accordingly, DART

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We note that although DART raises sections 552.101 through 552.131 of the Government Code, DART makes no arguments to support these exceptions. Therefore, we assume DART has withdrawn its claim these sections apply to the submitted information. Gov't Code §§ 552.301, .302.

³We note DART did not comply with section 552.301 of the Government Code in requesting this decision, as to the first request. *See* Gov't Code § 552.301(b), (e). Nevertheless, 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 submitted information must be withheld under the Act based on third-party interests. *See id.* § 552.302; Open Records Decision No. 150 at 2 (1977).

states, and provides documentation showing, it notified the GLO of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released). As of the date of this letter, we have not received comments from the GLO explaining why the submitted information should not be released. We have reviewed the submitted information. As no exceptions to disclosure have been raised for this information, it must be released to the requestor.

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, 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/som

Ref: ID# 607173

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)