



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 17, 2013

Mr. Craig Purifoy  
Open Records Coordinator  
Texas Department of Family and Protective Services  
P.O. Box 149030  
Austin, Texas 78714-9030

OR2013-10174

Dear Mr. Purifoy:

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# 490864 (DFPS ORR No. 04042013HTR).

The Texas Department of Family and Protective Services (the "department") received a request for the proposals and final scores for Region 6 for RFP Procurement No. 530-13-0013. You state you will redact some information pursuant to sections 552.136(c) and 552.147(b) of the Government Code.<sup>1</sup> Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Mauney & Associates, LLC ("Mauney & Associates"). Accordingly, you state, and provide documentation showing, you notified Mauney & Associates of the 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

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<sup>1</sup>Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *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). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note the submitted proposal was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2013-09985 (2013). We have no indication there has been any change in the law, facts, or circumstances on which the prior ruling was based. Accordingly, we conclude the department must rely on Open Records Letter No. 2013-09985 as a previous determination and withhold or release the proposal 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). However, we will address the submitted evaluation, which is not subject to the prior ruling.

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* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Mauney & Associates explaining why the submitted information should not be released. Therefore, we have no basis to conclude Mauney & Associates 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, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the department may not withhold the information at issue on the basis of any proprietary interest Mauney & Associates may have in the information.

In summary, the department must continue to rely on Open Records Letter No. 2013-09985 and withhold or release the information at issue in accordance with that ruling. 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.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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/ag

Ref: ID# 490864

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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Ms. Melissa Mauney  
Mauney & Associates, LLC  
758 County Road 417  
Evant, Texas 76525  
(w/o enclosures)