



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2014

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2014-16980

Dear Ms. McGowan:

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# 538220 (Dallas ISD# 13179).

The Dallas Independent School District (the "district") received a request for information pertaining to Request for Proposals Number OA-204159. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also claim release of this information may implicate the proprietary interests of Accountable School Staffing ("Accountable"), LIFE Therapies ("Life"), and Monarch Behavioral Therapy BII, LLC ("Monarch"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights 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 you claim and reviewed the submitted information.

Initially, we note the requestor states in her request "[i]f, upon receipt of this letter, the contract has not yet been awarded, [the requestor] ask[s] [the district] to retain this request and communicate the award information to [the requestor] when it becomes available." It is implicit in several provisions of the Act that the Act applies only to information already

in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Attorney General Opinion H-90 (1973); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of information the district maintained or had a right of access to as of the date it received the request.

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 any of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude Accountable, Life, or Monarch have protected proprietary interests 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. Although you raise section 552.110, we note section 552.110 protects the interests of third parties that provide information to governmental bodies, not the interests of governmental bodies themselves. *See generally* Open Records Decision No. 592 (1991). Thus, we do not address the district's argument under section 552.110 on behalf of these third parties. Accordingly, the district may not withhold the submitted information on the basis of any proprietary interests the notified third parties may have in the information.

We note the submitted information contains insurance policy numbers. Section 552.136 of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."¹ Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. Thus, the district must withhold the insurance policy numbers in the submitted information under section 552.136 of the Government Code. As you raise no further exceptions against disclosure of the remaining information, it must be released.

¹The 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).

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 538220

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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