



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2016

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

OR2016-19209

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# 624173 (DART ORR# W000-804-060816).

Dallas Area Rapid Transit ("DART") received a request for information pertaining to a specified solicitation. You state you released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.103 of the Government Code. You also state release of the submitted information may implicate the interests of Accenture, LLP ("Accenture"); Infor (US), Inc. ("Infor"); Init Innovations in Transportation; Mitac; SPX Corporation d/b/a Genfare ("Genfare"); Thales USA, Inc.; Trapeze Software Group Inc.; Xerox Transport Solutions, Inc.; and Vix Technology ("Vix"). Accordingly, you notified these third parties of the request for information and of their right to submit arguments stating why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from Accenture, Infor, and Vix. We have considered the submitted arguments and reviewed the submitted information.

Initially, you state the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2015-25565

(2015), 2016-00325 (2016), 2016-07659A (2016), and 2016-16808 (2016). In response to Open Records Letter Nos. 2015-25565, 2016-00325, and 2016-07659A, Vix has filed a lawsuit against our office. *See Vix Technology (USA), Inc. v. Attorney Gen. of Tex., et al*, No. D-1-GN-16-001972 (126th Dist. Ct., Travis County, Tex.). Accordingly, with regard to the information at issue in this lawsuit, we will allow the trial court to resolve the issue of whether the information that is the subject of the pending litigation must be released to the public.¹

The remaining submitted information, which is not at issue in the aforementioned lawsuit, is identical to information previously ruled upon by this office. Further, there is no indication the law, facts, and circumstances on which Open Records Letter Nos. 2015-25565, 2016-00325, 2016-07659A, and 2016-16808 were based have changed. Accordingly, with regard to the submitted information which is not at issue in the aforementioned lawsuit, we conclude DART must continue to rely on Open Records Letter Nos. 2015-25565, 2016-00325, 2016-07659A, and 2016-16808 as previous determinations and withhold or release the identical information in accordance with those rulings.² *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 information is or is not excepted from disclosure).

In summary, with regard to the information at issue in this lawsuit, we will allow the trial court to resolve the issue of whether the information that is the subject of the pending litigation must be released to the public. DART must continue to rely on Open Records Letter Nos. 2015-25565, 2016-00325, 2016-07659A, and 2016-16808 as previous determinations and withhold or release the remaining submitted information in accordance with those rulings.

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/>

¹As we are able to make this determination, we need not address the submitted arguments against disclosure of this information.

²As we are able to make this determination, we need not address the submitted arguments against disclosure of this information.

[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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/dls

Ref: ID# 624173

Enc. Submitted documents

c: Requestor
(w/o enclosures)

9 Third Parties
(w/o enclosures)