



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 29, 2020

Mr. Brad Bowman  
General Counsel  
Texas Department of Licensing and Regulation  
P.O. Box 12157  
Austin, Texas 78711

OR2020-16647

Dear Mr. Bowman:

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# 833273 (Ref. No. PIR-202002508).

The Texas Department of Licensing and Regulation (the "department") received a request for reports submitted by specified companies pertaining to a specified project. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> Additionally, the department states release of the submitted information may implicate the proprietary interests of Lyft, Inc. ("Lyft"). Accordingly, the department states, and provides documentation showing, it notified Lyft 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 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.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by other

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<sup>1</sup> We note the department did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

statutes, such as section 2402.152 of the Occupations Code. Section 2402.152 provides, in relevant part:

(a) Any records, data, or other information disclosed to a public entity in this state, including the department, by a transportation network company, including names, addresses, and any other personally identifiable information of drivers is not subject to disclosure under Chapter 552, Government Code.

(b) A public entity, including the department, may not disclose any records, data, or other information provided by a transportation network company under this chapter to a third party except in compliance with a court order or subpoena. If information provided under this chapter is sought through a court order or subpoena, the public entity shall promptly notify the transportation network company to afford the company the opportunity to take actions to prevent disclosure.

Occ. Code § 2402.152(a)-(b). Section 2402.001(5) defines a “transportation network company” as

a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity’s digital network, a digitally prearranged ride. The term does not include an entity that provides:

(A) street-hail taxicab services;

(B) limousine or other car services arranged by a method other than through a digital network;

(C) shared expense carpool or vanpool arrangements; or

(D) a type of ride service for which:

(i) the fee received by the driver does not exceed the driver’s costs of providing the ride; or

(ii) the driver receives a fee that exceeds the driver’s costs associated with providing the ride but makes not more than three round-trips per day between the driver’s or passenger’s place of employment and the driver’s or passenger’s home.

*Id.* § 2402.001(5). The department states the submitted information consists of records submitted by a transportation network company to the department for the purposes of complying with the reporting requirements of section 2402.113 of the Occupations Code. Upon review, we find the submitted information consists of records, data, or other information disclosed to a public entity, the department, by a transportation network

company. Accordingly, we find the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 2402.152(a) of the Occupations Code.

Finally, the department asks this office to issue a previous determination permitting the department to withhold from disclosure records, data, or other information disclosed to the department by a transportation network company under section 552.101 of the Government Code in conjunction with section 2402.152 of the Occupations Code without seeking a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Therefore, 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/be

Ref: ID# 833273

c: Requestor