



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 21, 2020

Ms. Detra Whitmore  
Vice President Customer Experience  
Fort Worth Transportation Authority  
801 Cherry Street, Suite 850  
Fort Worth, Texas 76102

OR2020-21030

Dear Ms. Whitmore:

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# 841960 (FWTA PIA Req. TMOR2020-017).

The Fort Worth Transportation Authority (the "authority") received a request for the proposal submitted in response to a specified request for proposals by a named company and the resulting contract. Although the authority takes no position as to whether the submitted information is excepted under the Act, the authority states release of the submitted information may implicate the proprietary interests of New Flyer of America, Inc. ("New Flyer"). Accordingly, the authority states, and provides documentation showing, it notified New Flyer 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 received comments from New Flyer. We have reviewed the submitted information and the submitted arguments.

Section 552.110(c) of the Government Code excepts from disclosure "commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]"<sup>1</sup> Gov't Code § 552.110(c). New Flyer indicates the submitted information consists of commercial or financial information subject to section

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<sup>1</sup> Although New Flyer does not cite to section 552.110(c) of the Government Code in its brief, we understand it to raise this section based on the substance of its argument.

552.110(c). Upon review, however, we find New Flyer has failed to provide specific factual evidence demonstrating the information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, the authority may not withhold any of the submitted information under section 552.110(c) of the Government Code, and the authority must release it.

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,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/rm

Ref: ID# 841960

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)