



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 7, 2020

Ms. Jacqueline E. Hojem  
Public Information Coordinator  
Metropolitan Transit Authority of Harris County  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2020-25252

Dear Ms. Hojem:

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# 848184 (Ref. No. 2020-0612).

The Metropolitan Transit Authority of Harris County (the "authority") received a request for information pertaining to Knightscope, Inc. ("Knightscope"). We understand the authority has released some of the requested information. 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 Knightscope. Accordingly, you state, and provide documentation showing, you notified Knightscope 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 Knightscope. We have considered the submitted arguments and reviewed the submitted information.

Section 552.139 of the Government Code provides:

- (a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; [and]

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)-(2). Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

*Id.* § 2059.055(b). Knightscope states the information it indicated pertains to the security system used by the authority. Knightscope explains the information at issue “contains the hardware network requirements, including the frequencies on which the network operates, details about network traffics between [the authority’s] and Knightscope’s operations and networks, physical installation requirements, and system architecture.” Further, Knightscope states release of the information at issue would allow criminals and hackers to interfere with the security system’s operation. Upon review, we find some of the information at issue pertains to the design, operation, or defense of a computer network. Accordingly, the authority must withhold the information we marked under section 552.139(a) of the Government Code.<sup>1</sup> However, we find Knightscope has failed to demonstrate the applicability of section 552.139 of the Government Code to the remaining information, and the authority may not withhold any of the remaining information on that basis.

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Section 552.110(b) of the Government Code states “information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” *See id.* § 552.110(b). Section 552.110(a) defines a trade secret as all forms and types of information if:

- (1) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and
- (2) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

*Id.* § 552.110(a). Knightscope argues some of its remaining information consists of trade secrets subject to section 552.110(b). However, we find Knightscope has failed to provide specific factual evidence demonstrating any portion of the remaining information at issue is a trade secret. Therefore, the authority may not withhold any of the remaining information at issue under section 552.110(b) of the Government Code.

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[.]” *Id.* § 552.110(c). Knightscope also argues some of its remaining information consists of commercial or financial information subject to section 552.110(c). Upon review, we find Knightscope has failed to provide specific factual evidence demonstrating the remaining information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, authority may not withhold any of the remaining information at issue under section 552.110(c) of the Government Code.

Section 552.136(b) 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.”<sup>2</sup> Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Upon review, we find the authority must withhold the bank account and routing numbers in the remaining information under section 552.136 of the Government Code.

In summary, the authority must withhold the information we marked under section 552.139 of the Government Code. The authority must withhold the bank account and routing numbers in the remaining information under section 552.136 of the Government Code. The authority must release the remaining information.

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<sup>2</sup> The 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 <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,

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/mo

Ref: ID# 848184

Enc. Submitted documents

c: Requestor  
(w/o enclosures)