



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 5, 2022

Ms. Robyn Katz  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

OR2022-09967

Dear Ms. Katz:

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# 939830 (Ref. No. R071798)

The Austin Police Department (the "department") received a request for certain information pertaining to Cellebrite, Inc. ("Cellebrite") during a specified period to time. You state some of the requested information will be released to the requestor. Although the department takes no position regarding whether the submitted information is excepted from disclosure under the Act, the department informs us its release may implicate the proprietary interests of Cellebrite.<sup>1</sup> Accordingly, the department states, and provides documentation showing, it notified Cellebrite of the request for information and of the right to submit arguments to this office. *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 Cellebrite. We have considered the submitted arguments and reviewed the submitted information.

Cellebrite raises section 552.102(a) of the Government Code. Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute

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<sup>1</sup> As you acknowledge, the department failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, third party interests can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* § 552.302; Open Records Decision No. 150 at 2 (1977). Because third party interests are at stake in this instance, we will consider the submitted arguments against disclosure of the information at issue.

a clearly unwarranted invasion of personal privacy[.]” Gov’t Code § 552.102(a). We note section 552.102(a) applies to information in the personnel file of a governmental employee. *See id.* None of Cellebrite’s information consists of information in the personnel file of a governmental employee. Therefore, we find none of the submitted information is subject to section 552.102(a) of the Government Code. Accordingly, the department may not withhold any portion of the submitted information on that basis.

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). Cellebrite argues some of the submitted information consists of commercial or financial information subject to section 552.110(c). Upon review, however, we find Cellebrite 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 department may not withhold the information at issue under section 552.110(c) of the Government Code.

Section 552.1101 of the Government Code provides, in relevant part:

(a) . . . [I]nformation submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from the requirements of Section 552.021 if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that disclosure of the information would:

(1) reveal an individual approach to:

(A) work;

(B) organizational structure;

(C) staffing;

(D) internal operations;

(E) processes; or

(F) discounts, pricing methodology, pricing per kilowatt hour, cost data, or other pricing information that will be used in future solicitation or bid documents; and

(2) give advantage to a competitor.

*Id.* § 552.1101(a). Cellebrite asserts disclosure of some of the submitted information would reveal an individual approach to work, organizational structure, staffing, internal operations, processes, or pricing, and give advantage to a competitor. Upon review,

however, we find Cellebrite has failed to provide the specific factual evidence necessary to withhold the information at issue under section 552.1101(a), and the department may not withhold it on that basis. As no other exceptions to disclosure have been raised, the submitted information must be released.

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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/mo

Ref: ID# 939830

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: Third Party  
(w/o enclosures)