



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 31, 2022

Ms. Courtney Tracy Ponthier
Criminal District Attorney
Newton County
110 East Court Street
Newton, Texas 75966

OR2022-15420

Dear Ms. Ponthier:

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# 950742.

Newton County (the "county") received a request for information related to agreements and purchases involving the county and named third parties.¹ You state the county has released some information to the requestor. You claim some of the submitted information is excepted from disclosure under section 552.131 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022 provides, in relevant part, the following:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

¹ You state the county sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). The submitted information consists of information in an account, voucher, or contract relating to the receipt or expenditure of funds by a governmental body that is subject to section 552.022(a)(3). The county must release this information pursuant to section 552.022(a)(3) unless it is made confidential under the Act or other law. *See id.* Although you seek to withhold the information at issue under section 552.131(b) of the Government Code, this section is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the county may not withhold the submitted information under section 552.131(b) of the Government Code. However, because section 552.131(a) of the Government Code makes information confidential under the Act, we will consider the applicability of this exception to the submitted information.

Section 552.131(a) of the Government Code relates to economic development information and provides as follows:

(a) Information is excepted from [required public disclosure] if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:

(1) a trade secret of the business prospect; or

(2) 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.

Gov't Code § 552.131(a). Section 552.131(a) only protects the proprietary interests of third parties that have provided information to governmental bodies, not the interests of governmental bodies themselves. No third party asserts any of the submitted information constitutes a trade secret or the release would cause a third party substantial competitive harm. *See generally* Open Records Decision Nos. 661 at 5–6 (1999), 552 at 5 (1990). Therefore, the county may not withhold any of the submitted information under section 552.131(a) of the Government Code. Accordingly, the county must release the submitted information.

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,

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/jm

Ref: ID# 950742

Enc. Submitted documents

c: Requestor
(w/o enclosures)