



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 22, 2022

Ms. Daphne Walker  
Senior Vice President, Chief Legal Counsel  
JPS Health Network  
1500 South Main Street  
Fort Worth, Texas 76104

OR2022-29290

Dear Ms. Walker:

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# 973600.

The Tarrant County Hospital District d/b/a JPS Health Network, Inc. ("JPS") received a request for information pertaining to a specified request for proposals, the rankings of the responses, and the resulting contract. You state JPS has released some of the requested information. Although you take no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of the following third parties: Vee Technologies ("Vee"); HBCS; EnableComp, LLC; HealthRecon Connect; FMA Alliance, Ltd.; and Salter Elite Consulting. Accordingly, you state you notified the interested third parties of the request and 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 Vee and HBCS. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have only received comments from Vee and HBCS. Thus, we have no basis to conclude the remaining third parties have a protected proprietary interest in the submitted information. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the

exception). Accordingly, JPS may not withhold any of the submitted information on the basis of any proprietary interest the remaining third parties may have in the information.

Vee claims that portions of its information are excepted from disclosure under section 552.102 of the Government Code. Section 552.102 excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” *Id.* § 552.102(a). However, section 552.102 only protects information in a personnel file of a governmental body, not a private third party. Vee’s information is not from the personnel file of a governmental body. Accordingly, JPS may not withhold the any information from disclosure pursuant to section 552.102 of the Government Code.

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

- (a) Except as provided by Section 552.0222, information 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.

- (b) The exception to disclosure provided by Subsection (a) does not apply to:

- (1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body; or

- (2) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

Gov't Code § 552.1101(a), (b). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.1101(a) does not apply. *See id.* § 552.0222(b). Vee and HBCS asserts disclosure of some of the information would reveal an individual approach to work, internal operations, and give advantage to a competitor. Upon review, we find Vee has demonstrated the applicability of section 552.1101(a) to some of the information at issue. Accordingly, JPS must withhold the information we marked under section 552.1101 of the Government Code. However, we find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.1101(a). *See id.* § 552.0222(b). Additionally, we find Vee and HBCS have failed to provide the specific factual evidence necessary to withhold any of the remaining information under section 552.1101(a), and JPS may not withhold it on that basis.

Section 552.110(b) of the Government Code states, “[e]xcept as provided by [s]ection 552.0222, information is [excepted from required disclosure] if it is demonstrated based on specific factual evidence that the information is a trade secret.” *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). Section 552.110(c) of the Government Code states:

- (c) Except as provided by Section 552.0222, 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 is [excepted from required disclosure].

*Id.* § 552.110(c). Additionally, we note section 552.0222(b) lists certain types of information to which section 552.110 does not apply. *Id.* § 552.0222(b). Vee and HBCS raise section 552.110(c) of the Government Code for some of their remaining information at issue. Upon review, we find Vee has demonstrated portions of the information at issue constitute commercial or financial information, the release of which would cause substantial competitive harm. Therefore, JPS must withhold the information we marked under section 552.110(c) of the Government Code; however, to the extent the customer information is made available to the public by Vee, it may not be withheld under section 552.110(c). However, we find some of the remaining information at issue is subject to section 552.0222(b). Additionally, we find Vee and HBCS failed to provide specific factual evidence demonstrating their remaining information at issue constitutes commercial or financial information, the release of which would result in substantial competitive harm. Therefore, JPS may not withhold any of the remaining information at issue under section 552.110(c) of the Government Code.

We understand Vee and HBCS argue some of the information at issue consists of trade secrets subject to section 552.110(b). Upon review, we find Vee has demonstrated portions of its information at issue constitute trade secrets. Therefore, JPS must withhold the information we marked under section 552.110(b) of the Government Code. However, we

find some of the remaining information at issue is subject to section 552.0222(b) and may not be withheld on the basis of section 552.110(b). Additionally, Vee and HBCS has failed to provide specific factual evidence demonstrating any portion of the rest of the remaining information at issue is a trade secret. Therefore, JPS may not withhold any of the remaining information at issue under section 552.110(b) of the Government Code.

Section 552.136 of the Government Code states, “Notwithstanding any other provision of this chapter, 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>1</sup> Gov’t Code § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). Accordingly, JPS must withhold the bank account number and bank routing number within the remaining information under section 552.136 of the Government Code.

In summary, JPS must withhold the information we marked under section 552.1101 of the Government Code. JPS must withhold the information we marked under section 552.110(c) of the Government Code; however, to the extent the customer information is made available to the public by Vee, it may not be withheld under section 552.110(c). JPS must withhold the information we marked under section 552.110(b) of the Government Code. JPS must withhold the bank account number and bank routing number within the remaining information under section 552.136 of the Government Code. The remaining 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,

Cesar Mata  
Attorney  
Open Records Division

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<sup>1</sup> The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 973600

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

7 Third Parties  
(w/o enclosures)