



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

October 19, 2022

Ms. Dionne Barner  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR2022-32216

Dear Ms. Barner:

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# 979047 (TxDOT Ref. No. R016411-072822).

The Texas Department of Transportation (the "department") received a request for a specified study. The department claims the submitted information is excepted from disclosure under section 552.105 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Initially, we note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a)(1) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body[.]" unless it is excepted by section 552.108 of the Government Code or "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(1). The submitted information consists of a completed report that is subject to section 552.022(a)(1) and must be released unless it is either excepted under section 552.108 or is confidential under the Act or other law. Although the department asserts this information is excepted from disclosure under section 552.105 of the Government Code, this section is discretionary and does not make information confidential under the Act. *See* Open Records Decision No. 564 (1990) (statutory predecessor to section 552.105 subject to waiver); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the submitted information may not be withheld under section 552.105 of the Government Code, and the department must release it pursuant to section 552.022(a)(1) of the Government Code.

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/eb

Ref: ID# 979047

Enc. Submitted documents

c: Requestor  
(w/o enclosures)