



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 5, 2022

Ms. Lisa Hulsey  
Senior Assistant County Attorney  
Harris County Attorney's Office  
1019 Congress Street, 15th Floor  
Houston, Texas 77002

OR2022-37481

Dear Ms. Hulsey:

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# 987866 (HCAO No. 22PIA1067; HSCO No. 22SO400118).

The Harris County Sheriff's Office (the "sheriff's office") received a request for all invoices and certain payment information regarding a named entity during a stated time period. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. Additionally, the sheriff's office states it notified Rams Aviation Company, Inc. ("Rams") 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). The sheriff's office has provided comments from Rams. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup> We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

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<sup>1</sup> We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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

(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:

...

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

*Id.* § 552.022(a)(3). The submitted information consists of invoices relating to the receipt or expenditure of funds by the sheriff's office that is subject to section 552.022(a)(3). This information must be released unless it is made confidential under the Act or other law. *See id.* Although the sheriff's office seeks to withhold the submitted information under section 552.108 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), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the sheriff's office may not withhold any of the submitted information under section 552.108 of the Government Code. However, as section 552.130 of the Government Code makes information confidential under the Act, we will consider the applicability of this exception to the information at issue. We will also consider Rams's argument under section 552.110 of the Government Code, as that exception also makes information confidential under the Act for purposes of section 552.022

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* Gov't Code § 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). Rams argues some of the submitted information consists of trade secrets subject to section 552.110(b).<sup>2</sup> Upon review, we find Rams has established its customer information constitutes trade secrets. Accordingly, the sheriff's office must withhold the client information pertaining to Rams under section 552.110(b) of the Government Code; however, to the extent the client information pertaining to Rams is made available to the public, including but not limited to on the company's website or social media accounts, it may not be withheld under section 552.110(b) of the Government Code.<sup>3</sup> However, we find Rams has failed to provide specific factual evidence demonstrating any portion of the remaining information at issue is a trade secret. Therefore, the sheriff's office 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). Rams generally asserts section 552.110(c) for some of the remaining information.<sup>4</sup> Upon review, however, we find Rams 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, the sheriff's office may not withhold any of the remaining information at issue under section 552.110(c) of the Government Code.

Section 552.130 of the Government Code excepts from public disclosure information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country. *See id.* § 552.130. Upon review, we find the sheriff's office has failed to demonstrate any of the remaining information is subject to section 552.130. Therefore, the sheriff's office may not withhold any of the remaining information under section 552.130 of the Government Code.

In summary, the sheriff's office must withhold the client information pertaining to Rams under section 552.110(b) of the Government Code; however, to the extent the client information pertaining to Rams is made available to the public, including but not limited to on the company's website or social media accounts, it may not be withheld under section 552.110(b) of the Government Code. The sheriff's office must release the remaining information.

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<sup>2</sup> Although Rams cites to former section 552.110(a) of the Government Code in its brief, we understand it to raise current section 552.110(b) of the Government Code based on the substance of its arguments.

<sup>3</sup> As our ruling is dispositive, we need not address Rams remaining argument against disclosure of this information.

<sup>4</sup> Although Rams cites to former section 552.110(b) of the Government Code in its brief, we understand it to raise current section 552.110(c) of the Government Code based on the substance of its arguments.

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,

James M. Graham  
Assistant Attorney General  
Open Records Division

JMG/mo

Ref: ID# 987866

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

cc: Third Party  
(w/o enclosures)