



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 25, 2010

Mr. Clint T. Griffin
Kosub & Griffin, LLP
P.O. Box 460
Eldorado, Texas 76936

OR2010-09394

Dear Mr. Griffin:

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#384353.

The Reagan County Sheriff's Office (the "sheriff"), which you represent, received a request for several categories of information pertaining to the Reagan County Jail (the "jail"), including the following: 1) the jail's fiscal year; 2) the jail's food budget for the fiscal year 2009; 3) how much money was spent on food in the fiscal year 2009; 4) the jail's food budget for the fiscal year 2010; 5) the jail's average inmate population for the fiscal year 2009; 6) the jail's average inmate population to date for the fiscal year 2010; 7) a copy of the menu the jail kitchen uses to feed the inmate population. You raise section 552.110 of the Government Code and claim that the release of the submitted information would implicate the proprietary interests of a third party. Thus pursuant to section 552.305 of the Government Code, you were required to notify the interested third party of the request and of its opportunity to submit comments to this office explaining why its information should be withheld from disclosure. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have reviewed the submitted representative sample of information.¹

Initially, we note you have only submitted information responsive to the menu aspect of the request for our review. To the extent information responsive to the remaining portions of the

¹We assume that 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.

request existed on the date the sheriff received this request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

You assert that the submitted information belongs to a third party who has instructed the sheriff not to distribute this information and thus should be withheld under section 552.110 of the Government Code. This exception protects (1) trade secrets, and (2) commercial or financial information, the disclosure of which would cause substantial competitive harm to the person from whom the information was obtained. *See* Gov't Code § 552.110 (a), (b). However, section 552.110 only protects the interests of private parties that submit information to governmental bodies, not the interests of a governmental body. *Id.* As of the date of this letter, we have not received comments from any third party explaining why the submitted information should not be released. *See id.*; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Accordingly, we conclude that the sheriff may not withhold any of the information at issue under section 552.110 of the Government Code. As no further 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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb