



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 12, 2024

Ms. Manasi Tahiliani
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2024-008876

Dear Ms. Tahiliani:

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# 23-102206 [C.A File No. 23PIA1199].

Harris County (the "county") received a request for information pertaining to a specified election.¹ You claim some of the submitted information is excepted from disclosure under section 552.139 of the Government Code. We have considered the exception you claim and reviewed the submitted information.²

We note the submitted information consists of an audit log report generated from the county's ballot scanning system. Section 125.064 of the Election Code provides, in relevant part, as follows:

¹ You state the county sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

² We 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.

Any documents or records used in the preparation of or prepared for use in an electronic voting system for the operation of the system for a particular election and any documents or records generated by the system in that election shall be made available for public inspection in the office of the general custodian of election records for the period for preserving the precinct election records.

Elec. Code § 125.064; *see id.* § 121.003(2) (defining “electronic voting system”). Upon review, we find the requestor has a right of access to the submitted information pursuant to section 125.064 of the Election Code. Although the county raises section 552.139 of the Government Code, a statutory right of access prevails over the Act’s general exceptions to public disclosure. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Because section 552.139 is a general exception under the Act, the requestor’s access under section 125.064 prevails, and the county may not withhold the information under section 552.139 of the Government Code. Thus, 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,

Paige Lay
Assistant Attorney General
Open Records Division

PL/mo

Ref: ID# 23-102206

c: Requestor