



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 8, 2014

Mr. Carey E. Smith  
General Counsel  
Texas Health and Human Services Commission  
Mail Code - 1070  
P.O. Box 13247  
Austin, Texas 78711

OR2014-05782

Dear Mr. Smith:

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# 519063.

The Texas Health and Human Services Commission (the "commission") received a request for information regarding vendor questions concerning nonemergency medical transportation services for a specified request for proposals. You state the commission intends to release most of the requested information. Although you take no position as to whether the submitted information is excepted from disclosure under the Act, you state release of this information may implicate the proprietary interests of LogistiCare Solutions, LLC ("LogistiCare") and Medical Transportation Management, Inc. ("MTM"). Accordingly, you state, and provide documentation showing, you notified LogistiCare and MTM of the request for information and of their rights 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).* We have received comments from LogistiCare. We have considered the submitted arguments and reviewed the submitted information.

Initially, LogistiCare asserts the information submitted by the commission is not responsive to the instant request. A governmental body must make a good-faith effort to relate to a

request to information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). In this instance, the commission has reviewed its records and determined the documents it has submitted for LogistiCare are responsive to the request. Thus, we find the commission has made a good-faith effort to relate the request to information within its possession or control. Accordingly, we find the information at issue is responsive to the request and will determine whether the commission must release the information at issue to the requestor under the Act.

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from MTM explaining why the submitted information should not be released. Therefore, we have no basis to conclude MTM has a protected proprietary interest in the submitted information. Additionally, LogistiCare only claims its information is not responsive. *See id.* § 552.110; 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. Accordingly, the commission may not withhold the submitted information on the basis of any proprietary interest MTM or LogistiCare may have in the information.

We note some of the submitted information is subject to section 552.136(b) of the Government Code, which states "[n]otwithstanding any other provision of [the Act], 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). Upon review, we find the commission must withhold the bank account and routing numbers we have marked 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.

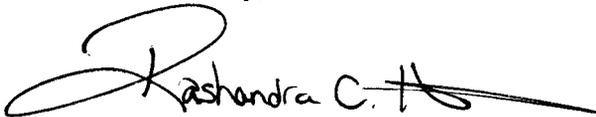
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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

[orl\\_ruling\\_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rashandra C. Hayes  
Assistant Attorney General  
Open Records Division

RCH/dls

Ref: ID# 519063

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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