



January 26, 2015

Mr. Carey E. Smith
Senior Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2015-01465

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# 554007.

The Texas Health and Human Services Commission (the "commission") received a request for all invoices, receipts, and general documents related to specified purchasing orders and any software licensing agreements and license ordering documents related to any purchases from 21CT, Inc. ("21CT") and the commission. You state you have released a portion of the information to the requestor. Although you take no position as to whether the remaining submitted information is excepted under the Act, you state release of the remaining submitted information may implicate the proprietary interests of 21CT. Accordingly, you state, and provide documentation showing, you notified 21CT of the request for information and of its right to submit arguments to this office as to why the remaining 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 21CT. We have considered the submitted arguments and reviewed the submitted information.

21CT argues the identifying information of its employees listed in the submitted invoices is not subject to the Act. The Act applies to "public information," which is defined in section 552.002(a) of the Government Code as

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). Information is "in connection with the transaction of official business" if it is "created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a government function on behalf of a governmental body, and pertains to official business of the governmental body." *Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and is subject to the Act. *See* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The submitted information consists of invoices for purchase orders between 21CT and the commission. Upon review, we find the commission maintains the information in connection with the transaction of its official business. Accordingly, the submitted information is subject to the Act and must be released unless the information falls within an exception to public disclosure under the Act. *See id.* § 552.305(b).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses section 521.051(a) of the Business and Commerce Code. Section 521.051 provides:

- (a) A person may not obtain, possess, transfer, or use personal identifying information of another person without the other person's consent and with intent to obtain a good, a service, insurance, an extension of credit, or any other thing of value in the other person's name.

Bus. & Comm. Code § 521.051(a). "Personal identifying information" means "information that alone or in conjunction with other information identifies an individual" and includes an

individual's date of birth. *Id.* § 521.002(a)(1)(A). 21CT asserts portions of the information at issue meet the definition of "personal identifying information" under section 521.002(a)(1) of the Business and Commerce Code. *See id.* § 521.002(a)(1). We note section 521.051(a) of the Business and Commerce Code does not prohibit the transfer of personal identifying information of another person unless the transfer is made with the intent to obtain a good, a service, insurance, an extension of credit, or any other thing of value in the other person's name without that person's consent. *See id.* § 521.051(a). The commission's release of the information at issue would be for the purpose of complying with the Act, and not "with intent to obtain a good, a service, insurance, an extension of credit, or any other thing of value[.]" *See id.* Therefore, section 521.051(a) of the Business and Commerce Code does not prohibit the commission from transferring the requested information. Accordingly, the commission may not withhold any of this information under section 552.101 of the Government Code in conjunction with section 521.051 of the Business and Commerce Code.

Section 552.136 of the Government Code provides, "[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." Gov't Code § 552.136(b); *see id.* § 552.136(a) (defining "access device"). Upon review, the commission must withhold the bank account and routing numbers we have marked under section 552.136 of the Government Code. However, none of the remaining information consists of access device numbers for the purposes of section 552.136. Therefore, the commission must release the remaining 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 http://www.texasattorneygeneral.gov/open/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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/akg

Ref: ID# 554007

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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