



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 8, 2015

Ms. Donna L. Clarke  
Assistant Criminal District Attorney  
Lubbock County  
P. O. Box 10536  
Lubbock, Texas 79408-3536

OR2015-09025

Dear Ms. Clarke:

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# 564874.

Lubbock County (the "county") received a request for the proposals that were submitted for the county's Jail Commissary Service. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of the following third parties: Commissary Express; Lone Star Commissary; ABL Management, Inc.; and Keefe Group. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue 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 reviewed the submitted information.

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 any of the third parties explaining why the submitted information should not be released.

Therefore, we have no basis to conclude any of the third parties has protected proprietary interests in the submitted information. *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 county may not withhold the submitted information on the basis of any proprietary interest the third parties may have in the information.

Section 552.136 of the Government Code 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); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for purposes of this exception. Thus, the county must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The remaining 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/eb

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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. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 564874

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Chris Rode  
Keefe Group  
3101 Marquis Road, Suite 200  
Garland, Texas 75042  
(w/o enclosures)

Mr. Sam Loria  
Commissary Express  
3002 Haskell Avenue  
Dallas, Texas 75223  
(w/o enclosures)

Mr. Tim Calcote  
Lone Star Commissary  
3664 State Highway 19  
Huntsville, Texas 77320  
(w/o enclosures)

Mr. John D. Appleton  
ABL Management, Inc.  
11224 Boardwalk, Suite B 1-5  
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(w/o enclosures)