



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 7, 2015

Mr. Vance Hinds  
Assistant County & District Attorney  
County of Ellis  
Ellis County Courts Building  
109 South Jackson  
Waxahachie, Texas 75165

OR2015-21016

Dear Mr. Hinds:

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# 582193.

The Ellis County District Attorney's Office (the "district attorney's office") received a request for (1) any and all current contracts with LexisNexis, online legal research, and/or Accurant information services, including Lexis Subscription Plan Amendment and/or any related contracts; (2) all purchase orders, delivery orders, invoices, modifications, or amendments issued or paid to LexisNexis for online legal research or information services for fiscal years 2014 to 2015; and (3) all proposals submitted by LexisNexis pursuant to the award of a contract or release of a purchase order, delivery order, and/or modification order. Although you take no position with respect to the public availability of the requested information, you state release of this information may implicate the proprietary interests of LexisNexis. Accordingly, you state and provide documentation showing, you have notified LexisNexis of the request for information and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the 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 to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from LexisNexis. Thus, LexisNexis has not demonstrated it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 district attorney's office may not withhold the submitted information on the basis of any proprietary interests LexisNexis may have in the information.

We note some of the submitted information is subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136(b) states that "[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, we find the district attorney's office must withhold the access device numbers we have marked under section 552.136 of the Government Code.

We also note some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the district attorney's office must withhold the access device numbers we have marked under section 552.136 of the Government Code. The district attorney's office must release the remaining information; however, any information protected by copyright may only be released in accordance with copyright law.

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.

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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).

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,



Thana Hussaini  
Assistant Attorney General  
Open Records Division

TSH/cbz

Ref: ID# 582193

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

LexisNexis  
P.O. Box 2314  
Carol Stream, Illinois 60132-2314  
(w/o enclosures)