



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 12, 2016

Mr. David Menchaca  
Assistant General Counsel  
Open Records Section  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR2016-00935

Dear Mr. Menchaca:

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# 593934 (Comptroller ID: 11804329343).

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for information pertaining to unclaimed property audits. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>We note, and the comptroller's office acknowledges, it did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nevertheless, because the exception the comptroller's office claims can provide a compelling reason to overcome the presumption of openness, we will consider the comptroller's office's claimed exception for the submitted information. *See id.* §§ 552.007, .302, .352.

<sup>2</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by statute. Gov’t Code § 552.101. Section 552.101 encompasses section 74.702 of the Property Code, which pertains to unclaimed property. Section 74.702 of the Property Code provides the following:

(a) To enforce this chapter and to determine whether reports have been made as required by this chapter, the comptroller, the attorney general, or an authorized agent of either, at any reasonable time, may examine the books and records of any holder.

(b) The comptroller, the attorney general, or an agent of either may not make public any information obtained by an examination made under this section and may not disclose that information except in the course of a judicial proceeding, authorized by this chapter, in which the state is a party or pursuant to an agreement with another state allowing joint audits or the exchange of information obtained under this section.

Prop. Code § 74.702. You explain financial institutions that hold property presumed to be abandoned under the Property Code are required to report such holdings and deliver such property to the comptroller’s office. You state section 74.702 gives the comptroller’s office the authority to examine the books and records of these financial institutions to ensure the reports and unclaimed property are being submitted to the comptroller’s office. You also state the submitted information consists of an unclaimed property audit report of a financial institution that was obtained by the comptroller’s office during the course of an examination authorized by section 74.702. Thus, you state the submitted information is confidential under section 74.702(b). *See id.* § 74.702(b). However, we find the submitted information consists of a final audit report created on behalf of the comptroller’s office and an invoice statement by a contract auditor to the comptroller’s office. Upon review, we find none of the submitted information constitutes information “obtained by an examination” under section 74.702. Thus, the submitted information is not confidential under section 74.702(b) of the Property 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.”<sup>3</sup> Gov’t Code § 552.136(b); *see id.* § 552.136(a) (defining “access device”). Thus, the bank account and routing numbers we have marked must be withheld under section 552.136 of the Government Code. The remaining information must be released.

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<sup>3</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).

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,



Katelyn Blackburn-Rader  
Assistant Attorney General  
Open Records Division

KBG/akg

Ref: ID# 593934

Enc. Submitted documents

c: Requestor  
(w/o enclosures)