



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 25, 2016

Mr. Marc J. Schnall  
Counsel for the City of Selma  
Langley & Banack, Inc.  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212-3166

OR2016-12010

Dear Mr. Schnall:

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# 611601.

The City of Selma (the "city"), which you represent, received a request for policy limit and claims paid summaries or liability insurance balance details for specified years. You state the city does not maintain information responsive to a portion of the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.103 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state some of the submitted information is not responsive to the instant request for information because it does not pertain to the specified time periods. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Next, we note the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure under this chapter unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108; [and]

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(1), (3). The submitted information includes a completed report that is subject to section 552.022(a)(1). The city must release the completed report pursuant to section 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or is made confidential under the Act or other law. *See id.* § 552.022(a)(1). The submitted information also contains information in an account, contract, or voucher relating to the receipt or expenditure of funds by the city that is subject to section 552.022(a)(3) of the Government Code. This information must be released unless it is made confidential under the Act or other law. *See id.* § 552.022(a)(3). You seek to withhold the responsive information under section 552.103 of the Government Code. However, section 552.103 is a discretionary exception that does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived). Accordingly, the city may not withhold the responsive information under section 552.103. However, because section 552.136 makes information confidential under the Act, we will consider the applicability of this exception to the responsive information.

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). Section 552.136(a) defines “access device” as “a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to . . . obtain money, goods, services, or another thing of value [or] initiate a transfer of funds

other than a transfer originated solely by paper instrument.” *Id.* § 552.136(a). You have marked entity identification numbers, which you state are “considered by the [c]ity to be an account number.” Upon review, we find you have not demonstrated the information you marked consists of access device numbers for purposes of section 552.136. Accordingly, the city may not withhold the information you marked under section 552.136 of the Government Code. Thus, the city must release the responsive information pursuant to section 552.022 of the Government Code.

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 611601

Enc. Submitted documents

c: Requestor  
(w/o enclosures)