



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 23, 2016

Ms. Angela Hough  
Assistant General Counsel  
North Texas Tollway Authority  
5900 West Plano Parkway, Suite 100  
Plano, Texas 75093

OR2016-14306

Dear Ms. Hough:

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# 615505 (File No. 2016-00852).

The North Texas Tollway Authority (the "authority") received a request for information pertaining to a specified request for proposals. You indicate the authority will redact information under section 552.136 of the Government Code.<sup>1</sup> You claim a portion of the submitted information is excepted from disclosure under section 552.130 of the Government Code.<sup>2</sup> You also state you notified AllianceOne Receivables Management, Inc. ("ARMI") and Law Enforcement Systems, LLC ("LES") of the request for information and of their rights to submit arguments to this office as to why the 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).

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<sup>1</sup>Section 552.136(c) of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See* Gov't Code § 552.136(d), (e).

<sup>2</sup>Although you also raise section 552.101 of the Government Code in conjunction with section 552.130 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision No. 676 at 1-2 (2002).

We have received comments from ARMI. We have considered the submitted arguments and 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 ruling, we have not received comments from LES. Thus, we have no basis to conclude LES has a protected proprietary interest in 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 authority may not withhold any of the submitted information on the basis of any proprietary interest LES may have in the information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). A private third party may invoke this exception. *Boeing Co. v. Paxton*, 466 S.W.3d 831 (Tex. 2015). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Id.* at 841. ARMI states it has competitors. In addition, ARMI states "the collections industry is highly competitive" and that release of the information at issue could give an advantage to its competitors. After review of the information at issue and consideration of the arguments, we find ARMI has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the authority may withhold the information we marked under section 552.104(a) of the Government Code.<sup>3</sup>

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code § 552.130*. The remaining documents contain motor vehicle information, which we have marked. However, we are unable to determine whether the marked information constitutes actual motor vehicle record information for purposes of section 552.130, or whether it is fictitious motor vehicle record information created as a sample for purposes of responding to the authority's request for proposals. Therefore, we rule conditionally. To the extent the information we have marked constitutes actual motor vehicle record information, the authority must withhold it under section 552.130 of the Government Code. To the extent the information we have marked consists of

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<sup>3</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

fictitious motor vehicle record information, then the authority may not withhold it on that ground.

In summary, the authority may withhold the information we marked under section 552.104(a) of the Government Code. The authority must withhold the information we have marked under section 552.130 of the Government Code to the extent it constitutes actual motor vehicle record information. The remaining 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,



Matthew Taylor  
Assistant Attorney General  
Open Records Division

MHT/dls

Ref: ID# 615505

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

2 Third Parties  
(w/o enclosures)