



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 9, 2016

Ms. Sylvia Porter  
Assistant County Attorney  
County of El Paso  
County Courthouse Room 503  
500 East San Antonio Avenue  
El Paso, Texas 79901

OR2016-27317

Dear Ms. Porter:

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# 637139 (File No. OP-16-311).

El Paso County (the "county") received a request for ten specified proposals. You state the county has released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.130, 552.136, and 552.147 of the Government Code. You also state release of this information may implicate the proprietary interests of third parties. Accordingly, you state, and provide documentation showing, you notified Aniyunwiwa Group, LLC; ASAP Servers of Texas; Choice Investigations & Process Service, Inc.; GT Civil Process Service; Legal Net Process Service; Professional Civil Process ("PCP"); Rapid Process Servers; Texas Civil Process; Southwest Investigations Group; Stecristom Private Detective Agency; and a named individual of the request for information and of their right 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). We have received comments from PCP. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note 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 remaining third parties explaining why their information should not be released. Therefore, we have no basis to conclude any of the remaining third parties has a protected proprietary interest 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 any of the information at issue on the basis of any proprietary interest the third parties may have in it.

We understand PCP to assert its information is excepted from public disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. A federal statute or an administrative regulation enacted pursuant to statutory authority can provide statutory confidentiality for purposes of section 552.101. *See* Open Records Decision No. 476 (1987) (addressing statutory predecessor). PCP raises section 201.6 of title 19 of the Code of Federal Regulations, which pertains to the United States International Trade Commission (the "commission"). *See* 19 C.F.R. § 201.1 (part 201 "relates generally to functions and activities of the [c]ommission"). We note section 201.6 defines "confidential business information" for purposes of the functions of the commission; provides the procedures for submitting business information in confidence to the commission, the approval or denial of confidential treatment by the commission, and appealing the denial or approval of confidential treatment by the commission; requires the commission to maintain the confidentiality of information determined to be entitled to confidential treatment; and limits the scope of certain procedures. *See id.* § 201.6(a)-(h). The information at issue is held by the county. Upon review, we find PCP has failed to provide any arguments demonstrating the applicability of section 201.6 to PCP's information. Therefore, the county may not withhold any of PCP's information under section 552.101 of the Government Code on the basis of section 201.6 of title 19 of the Code of Federal Regulations.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See* Gov't Code § 552.130(a)(1)-(2). Upon review, we find the county must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code.

Section 552.136 of the Government Code states "[n]otwithstanding any other provision of this chapter, 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." *Id.* § 552.136; *see*

*also id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for the purposes of section 552.136. Accordingly, we find the county must withhold the insurance policy numbers you have marked under section 552.136 of the Government Code.

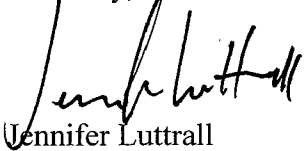
Next, you seek to withhold portions of the remaining information under section 552.147 of the Government Code. This section provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.<sup>1</sup> *Id.* § 552.147(a). Accordingly, the county may withhold the social security numbers you have marked under section 552.147 of the Government Code.

In summary, the county must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code. The county must withhold the insurance policy numbers you have marked under section 552.136 of the Government Code. The county may withhold the social security numbers you have marked under section 552.147 of the Government Code. 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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/akg

---

<sup>1</sup>We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. Gov’t Code § 552.147(b).

Ref: ID# 637139

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

11 Third Parties  
(w/o enclosures)