



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 10, 2020

Ms. Helen Johnson  
Officer of Public Information  
North Texas Tollway Authority  
P.O. Box 260729  
Plano, Texas 75026

OR2020-03847

Dear Ms. Johnson:

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# 810779 (Ref. No. 2019-03168).

The North Texas Tollway Authority (the "authority") received a request for information related to transactions occurring during a certain time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information other statutes make confidential. The authority is governed by the Texas Regional Tollway Authority Act, chapter 366 of the Transportation Code. Section 366.179 of the Transportation Code provides, in relevant part, the following:

(a) For purposes of this section, a transponder is a device placed on or within a motor vehicle that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is

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<sup>1</sup> We assume that 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 that those records contain substantially different types of information than that submitted to this office.

insufficiently funded if there is no money in the account for which the transponder was issued.

...

(d) Transponder account information, including contact and payment information and trip data, is confidential and not subject to disclosure under [the Act].

Transp. Code § 366.179(a),(d). You inform us that, in connection with the operation of its toll projects, the authority issues transponders or “TollTags” to authority customers wishing to establish an account with the authority. You state Attachment B-1 consists of TollTag customer account information that is compiled by the authority. Based on these representations, we agree the authority must withhold Attachment B-1 under section 552.101 of the Government Code in conjunction with section 366.179(d) of the Transportation Code.

Section 552.101 of the Government Code also encompasses section 366.178 of the Transportation Code which provides, in relevant part:

(b-1) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date or provide toll exemptions. Information collected under this subsection, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under [the Act].

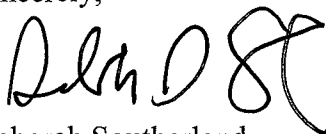
*Id.* § 366.178(b-1). You inform us that as an alternative to payment of a toll at the time a vehicle is driven on the authority’s tollway, the authority permits individuals to pay a higher toll rate at a later date through the ZipCash invoicing system. You state Attachment B-2 consists of information collected by the authority pursuant to this subsection. Based on these representations, we agree Attachment B-2 is confidential under section 366.178(b-1) of the Transportation Code and must be withheld under section 552.101 of the Government Code.

In summary, the authority must withhold Attachment B-1 under section 552.101 of the Government Code in conjunction with section 366.179(d) of the Transportation Code and must withhold Attachment B-2 under section 552.101 of the Government Code in conjunction with section 366.178(b-1) of the Transportation 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Deborah Southerland', written in a cursive style.

Deborah Southerland  
Assistant Attorney General  
Open Records Division

DS/be

Ref: ID# 810779

Enc. Submitted documents

c: Requestor  
(w/o enclosures)