

July 20, 2016

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street
Austin, TX 78701

Dear General Paxton:

As Chair of the House Committee on Transportation, I respectfully request a formal opinion on the following questions:

- 1. What documents or actions are included in the terms "registration services" in Section 520.0071(b), Transportation Code, and "process a registration renewal" in Section 520.005(d), Transportation Code?*
- 2. Does the Department of Motor Vehicles ("department") have express or implied authority to provide registration services, to print and mail registration insignia, or to contract with a vendor to perform those actions?*
- 3. Would a contract with a private vendor generally to provide registration services or specifically to print and mail registration insignia for online registration renewals require the contractor to work with or be approved by a county, particularly if the department does not have clear, unilateral authority to provide those services?*

This request arises from a proposal of the department to centralize, by contracting with a single vendor, the printing and mailing of registration insignia for online motor vehicle registration renewals.¹ Currently, printing and mailing of registration insignia for online registration renewals is carried out by county assessor-collectors, so the department's goal of centralizing these services will result in a shift of responsibilities and revenue among the department, counties, and vendors. Answers to the above questions will help determine whether this shift in responsibilities and the contracting out of those responsibilities is authorized under Texas law.

¹ Texas Department of Motor Vehicles Board Meeting Agenda Book, June 27, 2016, p. 12, available at <http://www.txdmv.gov/about-us/txdmv-board-meetings>. The department published proposed rules on this topic at 41 Tex. Reg. 2920-2930 (April 22, 2016).

1. What documents or actions are included in the terms "registration services" in Section 520.0071(b), Transportation Code, and "process a registration renewal" in Section 520.005(d), Transportation Code?

Chapter 502, Transportation Code, establishes the vehicle registration system. The chapter generally requires an application for motor vehicle registration to be made "through the county assessor-collector of the county in which the owner resides."² The rest of the registration process is set out in Chapters 501, 502, 504, and 520, Transportation Code.³

Section 520.0071, Transportation Code, allows counties to deputize individuals or businesses to provide "registration services." Section 520.005, Transportation Code, requires counties to "process a registration renewal" through an online system designated by the department. The Transportation Code does not explicitly define "registration services" or list the specific steps included in "processing" an application to renew a vehicle registration. Similarly, the code does not specify the documents included in a "registration renewal."⁴

Does providing registration services or processing a registration renewal include the printing and mailing of a registration insignia? Does "registration renewal" refer only to the renewal application itself? Or should it be interpreted more broadly to include the registration insignia and related documents? Is a county assessor-collector's duty to "process a registration renewal" related to the "registration services" that counties may deputize an entity to perform?

2. Does the department have express or implied authority to provide registration services, to print and mail registration insignia, or to contract with a vendor to perform those actions?

Is the department authorized to provide general registration services? The department is named specifically as the administrator of the registration program,⁵ though the department directly registers vehicles itself only in limited instances, such as the registration of a fleet of vehicles or registration of vehicles under the International Registration Plan.⁶

Is the department authorized to print and mail registration insignia? Specific statutory authority to print and mail registration insignia is not expressly granted to any entity in the Transportation Code. Although the department is statutorily charged with "issuing" the registration insignia for a registration renewal,⁷ the only statutory reference to printing or mailing the insignia is one that authorizes a county assessor-collector to collect a fee to cover the costs of

² Sec. 502.040(b)(1), Transportation Code.

³ Subchapter B, Chapter 502, Transportation Code, sets out the main vehicle registration requirements.

⁴ By contrast, compare Section 520.051(3), Transportation Code, which specifies the documents, including "motor vehicle registration renewal applications," that are included in the term "title documents" for the purposes of Subchapter E, Chapter 520, Transportation Code.

⁵ Secs. 502.0021(a) and 520.004, Transportation Code.

⁶ Secs. 502.0023 and 502.091, Transportation Code.

⁷ Secs. 502.044(d) and 502.059(b), Transportation Code.

handling and postage to mail the registration insignia for registration by mail.⁸ For online registration renewals, department rules currently assign the printing and mailing of registration insignia as a duty of the county assessor-collector.⁹ The relevant statutory authority for online renewal processing, Section 520.005(d), Transportation Code, requires simply that a county assessor-collector "process a registration renewal through an online system designated by the department." Duties under this section are clearly bifurcated: processing authority, which could reasonably be interpreted to include printing and mailing registration insignia, is expressly given to the county assessor-collector, while the department's role is merely to designate which online system the county assessor-collector must use to receive a registration renewal application.

Is the department authorized to contract with a vendor to provide registration services or to print and mail registration insignia?¹⁰ While the department has no express authority to contract with a private vendor to print and mail registration insignia for online registration,¹¹ the department does have authority to contract with a business entity to perform "a department function."¹² Without express statutory authority, the department currently contracts with a private vendor to "facilitate" the online renewal process;¹³ however, the designation of the online renewal system is expressly a department function.¹⁴

3. Would a contract with a private vendor generally to provide registration services or specifically to print and mail registration insignia for online registration renewals require the contractor to work with or be approved by a county, particularly if the department does not have clear, unilateral authority to provide those services?

While the Transportation Code does not establish a specific system for the department to contract with a private vendor to provide registration services,¹⁵ the code does establish such a system for county assessor-collectors. A county assessor-collector may, with the approval of the commissioners court, deputize a business entity to provide registration services¹⁶ and "contract with a private entity to enable an applicant for registration to use an electronic off-premises location," such as an online system.¹⁷ Given the code's silence on department contracts and the existence of these county contract provisions, would a private vendor operating under a

⁸ Sec. 502.197(a), Transportation Code.

⁹ 43 T.A.C. Sec. 217.29(f).

¹⁰ Note that the entities listed in Chapter 502 that collect registration fees include department officials, counties, and county vendors and deputies, but not department vendors. Sec. 502.1911(b)(2), Transportation Code.

¹¹ By contrast, compare Section 502.1515, Transportation Code, which grants the department express authority to contract with a private vendor to produce and distribute registration renewal notices.

¹² Sec. 1001.013, Transportation Code.

¹³ 43 T.A.C. Sec. 217.29(a).

¹⁴ Sec. 520.005(d), Transportation Code.

¹⁵ With the narrow exception of Section 520.1515, Transportation Code. *See* note 11 above.

¹⁶ Sec. 520.0071, Transportation Code.

¹⁷ Sec. 502.197(b), Transportation Code.

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department contract be required under the Transportation Code to work with a county assessor-collector or to be approved by a county commissioners court?

Thank you in advance for your consideration of this matter. Please do not hesitate to contact me if you need any additional information regarding this request.

Sincerely,

Representative Joe C. Pickett
Chair, House Committee on Transportation