



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 23, 2013

Mr. Joel E. Geary
Counsel for Dallas Metrocare Services
Vincent Lopez Serafino Jenevein, P.C.
1601 Elm Street, Suite 4100
Dallas, Texas 75201

OR2013-08606

Dear Mr. Geary:

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# 488183.

Dallas Metrocare Services d/b/a Metrocare Services ("Metrocare") received a request for United Healthcare plan documentation in effect for Metrocare employees in April 2007 pursuant to the administration of the Group Employee Welfare Benefit Plan and the contract between Metrocare and United Healthcare for administrative and claim payment services of the Group Employee Welfare Benefit Plan. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released.)

Initially, we note you have only submitted an administrative services agreement between Metrocare and United Healthcare. To the extent any other responsive information existed and was maintained by Metrocare when it received the present request for information, we assume it has been released. If such information has not be released, Metrocare must release it at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exception apply to requested information, it must release information as soon as possible).

Next, we note the submitted 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 unless made confidential under [the Act] or other law:

...

(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)(3). The submitted information consists of an executed contract subject to section 552.022(a)(3). Thus, the submitted contract must be released unless this information is made confidential under the Act or other law. *See id.* Although you seek to withhold this information under section 552.103 of the Government Code, section 552.103 is a discretionary exception and 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 Gov't Code § 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the submitted information may not be withheld under section 552.103 of the Government Code. As you raise no further exceptions to disclosure, the submitted information must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/bhf

Mr. Joel E. Geary - Page 3

Ref: ID# 488183

Enc. Submitted documents

c: Requestor
(w/o enclosures)