



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 10, 2014

Mr. John W. Peeler  
Counsel for Harris County Emergency Services District No. 9  
Coveler & Katz, P.C.  
Two Memorial City Plaza  
820 Gessner, Suite 1710  
Houston, Texas 77024-8261

OR2014-09912

Dear Mr. Peeler:

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# 525346.

The Harris County Emergency Services District No. 9 (the "district"), which you represent, received a request for all contracts with, and materials created by, any consultant for the district related to collection of sales tax. You state the district is releasing some of the requested information. 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 protected by section 323.3022 of the Tax Code, which provides in relevant part:

- (a) In this section, "other local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is

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

authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

...

(c) The [Texas Comptroller of Public Accounts (the "comptroller")] on request shall provide to a county or other local governmental entity that has adopted a tax under this chapter information relating to the amount of tax paid to the county or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the county or other local governmental entity, that is part of:

...

(8) any area defined by the county or other local governmental entity for the purpose of economic forecasting.

...

(g) Information received by a county or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the county or other local governmental entity under this chapter, or for the purpose described by Subsection (h).

Tax Code § 323.3022(a), (c)(8), (g). You explain the district has imposed a sales and use tax within its boundaries. Thus, we understand the district is a taxing entity for purposes of section 323.3022 of the Tax Code. You inform us the district has contracted with Sales Tax Assurance, L.L.C. ("STA"), for services related to the collection of the district's sales and use tax. You indicate pursuant to the contract, STA is authorized to request and receive the district's tax information from the comptroller pursuant to section 323.3022(c). You explain STA uses the district's tax information for purposes of economic forecasting. You indicate STA compiled the submitted information from tax information STA received from the comptroller pursuant to section 323.3022(c)(8). However, you have not identified any specific information within the submitted documents as having been received from the comptroller. Thus, to the extent any portion of the submitted information consists of information that was actually provided by the comptroller pursuant to section 323.3022(c)(8) relating to the amount of tax paid to the district, the district must withhold such information under section 552.101 of the Government Code in conjunction with section 323.3022(g) of the Tax Code. However, to the extent any of the submitted information was not actually provided by the comptroller pursuant to section 323.3022(c)(8) relating to the amount of tax paid to the district, such information may not be withheld under section 552.101 of the Government Code in conjunction with section 323.3022(g) of the Tax Code.

We note any remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, to the extent any portion of the submitted information consists of information that was actually provided by the comptroller pursuant to section 323.3022(c)(8) of the Tax Code relating to the amount of tax paid to the district, the district must withhold such information under section 552.101 of the Government Code in conjunction with section 323.3022(g) of the Tax Code. Any remaining information must be released; however, any information that is subject to copyright may be released only in accordance with copyright law.

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

Ref: ID# 525346

c: Requestor