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ATTORNEY GENERAL OF TEXAS

May 4, 2015

Mr. Fletcher Brown
Counsel for the Jack County Hospital District
Waller Lansden Dortch & Davis, L.L.P.
100 Congress Avenue, Suite 2200
Austin, Texas 78701

OR2015-08569

Dear Mr. Brown:

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# 562352.

The Jack County Hospital District (the "district"), which you represent, received a request for all documents related to the acquisition of any interest in the Park View Care Center, all correspondence that references the PharMerica Corporation and/or pharmacy services at the Park View Care Center, and all correspondence to or from any representative of three specified companies and three named individuals. You state the district has no information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code.² We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from an attorney representing the requestor. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released).

We note the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²Although you also raise section 552.107 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See Gov't Code* §§ 552.301, .302.

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter 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[.]

Id. § 552.022(a)(3). The submitted information consists of contracts related to the expenditure of public funds. These documents must be released unless they are made confidential under the Act or other law. *See id.* You seek to withhold the information subject to section 552.022(a)(3) under section 552.103 of the Government Code. However, 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 district may not withhold any of the information subject to section 552.022(a)(3) under section 552.103 of the Government Code. As you raise no other exceptions to the disclosure, the district must release the submitted information pursuant to section 552.022(a)(3) of the Government 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 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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/cbz

Ref: ID# 562352

Enc. Submitted documents

c: Requestor
(w/o enclosures)