



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2015

Ms. Kristi Ward
Associate General Counsel
UMC Health System
602 Indiana Avenue
Lubbock, Texas 79415

OR2015-24489

Dear Ms. Ward:

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# 588614.

University Medical Center Physician Network Services ("PNS")¹ received a request for its budgets for three fiscal years, the contract between the UMC Health System and PNS, the names, titles, and salaries of PNS employees and officers, and a named medical doctor's personnel file. You state PNS does not have information responsive to the request for the medical doctor's personnel file.² 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.

¹You explain the Lubbock County Hospital District owns and operates University Medical Center ("UMC") and is the sole member of PNS, a nonprofit corporation that contracts with UMC to provide physicians for UMC's emergency room.

²The 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 dism'd); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1–2 (1990).

Initially, 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 this chapter or other law:

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body; [and]

...

(5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate[.]

Gov't Code § 552.022(a)(2), (3), (5). The submitted information consists of employee names, salaries, and titles, contracts, and budget information that are subject to subsections 552.022(a)(2), (3), and (5). PNS must release the submitted information pursuant to section 552.022(a) unless it is made confidential under the Act or other law. *See* Gov't Code § 552.022(a). You seek to withhold the submitted information under section 552.103 of the Government Code. However, section 552.103 is discretionary in nature 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, PNS may not withhold any of the submitted information under section 552.103 of the Government Code. As you claim no other exceptions to disclosure, PNS must release the submitted information 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.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,

A handwritten signature in cursive script that reads "Karen Hattaway".

Karen Hattaway
Assistant Attorney General
Open Records Division

KEH/sdk

Ref: ID# 588614

Enc. Submitted documents

c: Requestor
(w/o enclosures)