



July 19, 2000

Ms. Leah Curtis Morris
Curtis, Alexander, McCampbell & Morris
2708 Washington Street
P.O. Box 1256
Greenville, Texas 75403-1256

OR2000-2714

Dear Ms. Morris:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 137153.

The Hunt Memorial Hospital District (the "district"), which you represent, received the following request for six categories of information related to the bidding and selection process for emergency medical services:

1. A copy of AMR's bid.
2. List of all board members and titles of HMHD.
3. A copy of by-laws and constitution that are used during HMHD board meetings.
4. All board members that were present at the night the contract was awarded.
5. Evaluation of Responses and the voting of each of the three committee's, EMSAB, HMHD Administration and HMHD Board of Directors.

6. The officers present at the March 15, 2000 meeting at the conference room.

You have already made available to the requestor information responsive to item numbers 2, 3, and 4. You assert that there is no information that is responsive to item number 6.¹ You claim that the evaluation sheets you have submitted as responsive to item number 5, Exhibits "B" and "C," are not public records, and assert no exception to their disclosure. Although you do not object to the release of the information requested in item number 1, you indicate that it may be proprietary information of American Medical Response ("AMR"). We have considered the arguments you make and have reviewed the submitted information.

You assert that the evaluation sheets from two of the boards reviewing the proposals submitted to the district are not "public records" and are thus not subject to the Public Information Act. Section 552.002 of the Government Code provides that "public information" means information that is collected or maintained by a governmental body in connection with the transaction of official business. You inform us that the district board "oversees the provision of emergency care to the citizens of Hunt County." The district board utilized an ad hoc advisory committee to review proposals for the provision of ambulance services. Here, the advisory board used evaluation sheets to score the submitted proposals. Two of the committee's score sheets have been submitted as Exhibit "B" and are responsive to item number 5 of the current request. Similarly, the district's board used evaluation sheets to assess the submitted proposals. You have submitted the board's evaluation sheets as Exhibit "C." You have also submitted as Exhibit "D" other information that was used in the evaluation process. Based upon the information you have provided, we conclude that the information in Exhibits "B," "C" and "D" is maintained by the district in connection with the transaction of official business. Further, there is a legitimate public interest in the expenditure of public funds. *See Gov't Code § 552.022(a)(3); Open Records Decision Nos. 541 at 1-2 (1990), 520 at 5 (1989), 518 at 7 (1989), 233 at 2 (1980).* Similarly, there is a legitimate public interest in how public officials conduct official business. *Open Records Decision Nos. 518 at 4 (1989), 506 at 4 (1988).* Thus, the information responsive to item number 5, consisting of evaluation sheets from the Emergency Medical Services Advisory Board and the district's Board of Directors, is public information that is subject to public disclosure under the Act. *See City of Garland v. Dallas Morning News*, 969 S.W.2d 548, 553-54 (Tex. App.--Dallas 1998, pet. granted). As you have asserted no exceptions for withholding from disclosure the information in Exhibits "B," "C" and "D," we conclude that you must release this information to the requestor. *See Gov't Code §§ 552.006, .301, .302.* However, since you assert that the proprietary interest of a third party is implicated in item 1 of the request, we will consider whether the bid proposal information is excepted from disclosure pursuant to section 552.110 of the Government Code.

¹A governmental body has no obligation to compile or prepare new information. *Open Records Decision Nos. 605 (1992), 574 (1990), 464 (1987).*

You notified AMR that you had received a public information request for their proposal. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). As of this date, AMR has not submitted to this office any reason to withhold the requested information, nor have you established that the information must be withheld from disclosure. Consequently, we have no basis for concluding that the submitted proposal is excepted from public disclosure. *See* Open Records Decision No. 552 (1990). Therefore, the district may not withhold the requested proposal under section 552.110 of the Government Code. The district must release all of the submitted information to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/ljp

Ref: ID# 137153

Encl. Submitted documents

cc: Mr. Anthony J. Myers
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