



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 15, 2015

Mr. Chong Choe  
Assistant District Attorney  
Civil Division  
County of Dallas  
411 Elm Street, 5<sup>th</sup> Floor  
Dallas, Texas 75202-3317

OR2015-11779

Dear Mr. Choe:

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# 567252.

Dallas County Health and Human Services (the "county") received a request for information relating to a specified request for proposal, including policies, documents providing general information guidance, communications, copies of the proposals received, information regarding the External Review Committee, scoring sheets and other assessments, and documents establishing a timeline for the process. You claim the requested information is excepted from disclosure under sections 552.103, 552.104, and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the information you have submitted.

Initially, we note you have only submitted information responsive to the request for communications. You have not submitted any information responsive to the remaining categories of the request. Although you state the county has submitted a representative sample of the requested information, we find the submitted information is not representative of all the information to which the requestor seeks access. Please be advised this open records letter applies to only the types of information you have submitted for our review. This ruling does not authorize the county to withhold any information that is substantially different from the type of information you submitted to this office. *See Gov't Code*

§ 552.302. Therefore, to the extent information responsive to the remaining categories of the request exists and was maintained by the county on the date it received the request, we assume the county has released it to the requestor. If the county has not released any such information, it must do so at this time. *Id.* §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Section 552.103 of the Government Code provides, in relevant part:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a)(c). The governmental body has the burden of providing relevant facts and documents to show the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W. 2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.): Open Records Decision No. 551 at 4 (1990). The governmental body must meet both prongs of this test for information to be excepted under section 552.103(a). *See* ORD 551 at 4.

You state prior to the county's receipt of the instant request, a lawsuit styled *AIDS Healthcare Foundation v. Dallas County*, Cause No. DC-15-02922, was filed and is currently pending in Dallas County, Texas. Therefore, we agree litigation was pending on the date the county received the present request for information. You also state the submitted information pertains to the substance of the lawsuit claims. Upon review, we agree the

submitted information is related to the pending litigation. Therefore, we conclude the county may withhold the submitted information under section 552.103 of the Government Code.<sup>1</sup>

However, once the information has been obtained by all parties to pending litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 at 2 (1982). We also note the applicability of section 552.103(a) ends when the litigation has concluded. Attorney General Opinion MW-575 at 2 (1982); Open Records Decision Nos. 350 at 3 (1982), 349 at 2.

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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/som

Ref: ID# 567252

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.