



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

This ruling has been modified by court action.
The ruling and judgment can be viewed in PDF
format below.



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 22, 2019

Ms. Jessica Marsh
General Counsel
Texas Civil Commitment Office
4616 West Howard Lane, Building 2, Suite 350
Austin, Texas 78728

**The ruling you have requested
has been amended as a result
of litigation and has been
attached to this document.**

OR2019-08089

Dear Ms. Marsh:

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# 755103 (PIA 2019-0001).

The Texas Civil Commitment Office (the "TCCO") received a request for seven categories of records pertaining to a specified budget request; requests for proposals and contracts; and certain legislative documents. You state the TCCO does not maintain information responsive to portions of the request.¹ You also state the TCCO will release some information. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Wellpath Recovery Solutions, LLC ("Wellpath"). Accordingly, you state, and provide documentation showing, the TCCO notified Wellpath of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See*

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).

Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Wellpath. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information is subject to section 2261.253 of the Government Code. You inform us the information at issue consists of amendments that were incorporated into a contract that is subject to the posting requirements in section 2261.253. Gov't Code § 552.303(c) (attorney general may give written notice to governmental body that additional information is necessary to render decision). Section 2261.253(a) provides, in relevant part, as follows:

(a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed[.]

(b) A state agency monthly may post contracts described by Subsection (a) that are valued less than \$15,000.

Id. § 2261.253(a)(1), (b). The contract at issue is valued at more than \$15,000, is between the TCCO, which is a state agency, and a private vendor for the purchase of services, and the contract is not expired or completed. You seek to withhold some of the submitted information under section 552.101 of the Government Code. Additionally, Wellpath seeks to withhold the information at issue under sections 552.104 and 552.110 of the Government Code. However, we note the exceptions to disclosure found in the Act do not generally apply to information that other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, the TCCO may not withhold the information at issue under section 552.101, section 552.104, or section 552.110 of the Government Code. Consequently, the TCCO must release the submitted information pursuant to section 2261.253 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,

A handwritten signature in black ink, appearing to read 'KH' followed by a stylized flourish.

Kieran Hillis
Assistant Attorney General
Open Records Division

KH/gw

Ref: ID# 755103

c: Requestor

c: Third Party

CAUSE NO. D-1-GN-19-002250

TEXAS CIVIL COMMITMENT OFFICE, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
KEN PAXTON, ATTORNEY GENERAL OF THE STATE OF TEXAS, <i>Defendant.</i>	§	
	§	
	§	353rd JUDICIAL DISTRICT

AGREED ORDER OF DISMISSAL

This is a cause of action under the Public Information Act (PIA), Texas Government Code chapter 552. Plaintiff Texas Civil Commitment Office (TCCO) and Defendant Ken Paxton, Attorney General of Texas, agree to dismiss this suit pursuant to PIA section 552.327 on the grounds that (1) the requestor has voluntarily withdrawn in writing a portion of his request for the information at issue in Letter Ruling OR2019-08089; and (2) TCCO represents it will release the remaining information responsive to the request at issue in Letter Ruling OR2019-08089. *See* Tex. Gov't Code § 552.327. A court may dismiss a PIA suit under section 552.327 when all parties agree to dismissal, and the Attorney General determines and represents to the Court that the requestor has voluntarily withdrawn the request for information in writing or has abandoned the request. *Id.* The Attorney General represents to the Court that the requestor, William A. Marshall, has voluntarily withdrawn in writing the portion of his PIA request covering the information TCCO argued was confidential in TCCO's Original Petition. Accordingly, TCCO need not release pursuant to Letter Ruling OR2019-08089 the information for which the requestor has withdrawn his request. Taking the above representations into consideration, the Court is of the opinion that entry of an agreed dismissal order is appropriate.

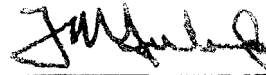
It is therefore ORDERED, ADJUDGED, and DECLARED that this cause is DISMISSED in all respects:

All costs of the court and attorney fees are taxed against the parties incurring the same;

All relief not expressly granted is denied; and

This order disposes of all claims between the parties and is final.

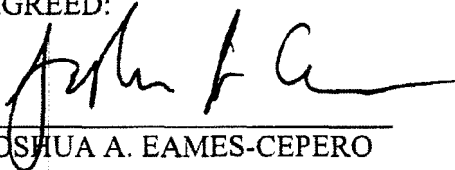
Signed this 4th day of May, 2020



JUDGE PRESIDING

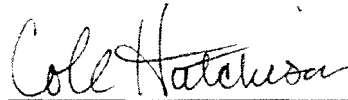
Tim Sulak

AGREED:



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