



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 23, 2020

Ms. Regina D. Adams  
Counsel for the Harris County  
Emergency Services District No. 11  
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Houston, Texas 77019-7120

OR2020-32224

Dear Ms. Adams:

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# 859537.

The Harris County Emergency Services District No. 11 (the "district"), which you represent, received a request for information submitted to the district by Cypress Creek Emergency Medical Services Association ("CCEMS") in relation to an audit or requests for proposals. You state the district has released some of the requested information. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. You also state release of this information may implicate the proprietary interests of CCEMS. Accordingly, you state, and provide documentation showing, you notified CCEMS 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* 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 CCEMS. We have considered the submitted arguments and reviewed the submitted information.

CCEMS argues its information is not subject to the Act. The Act is only applicable to "public information." *See* Gov't Code § 552.021. Section 552.002(a) of the Government Code defines "public information" as the following:

[I]nformation that written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

*Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). CCEMS contends the information at issue is not subject to the Act because it "has contested [the district's] right to access" the information at issue. We note, however, this information was collected, assembled, or maintained in connection with the transaction of the district's official business, and the district has submitted this information as being subject to the Act. Thus, the information at issue is subject to the Act and must be released, unless the information falls within an exception to public disclosure under the Act.

Section 552.110(c) of the Government Code excepts from disclosure "commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(c). CCEMS argues its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find CCEMS has demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive

harm. Accordingly, the district must withhold the submitted information under section 552.110(c) of the Government Code.<sup>1</sup>

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/be

Ref: ID# 859537

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

1 Third Party  
(w/o enclosures)

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<sup>1</sup> As our ruling on this information is dispositive, we need not address the remaining arguments against disclosure of this information.