



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 12, 2022

Ms. Daphne Walker
Senior Vice President, Chief Legal Counsel
JPS Health Network
1500 South Main Street
Fort Worth, Texas 76104

OR2022-31275

Dear Ms. Walker:

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# 974416 (Ref. No. 22-OR-55).

The Tarrant County Hospital District d/b/a JPS Health Network ("JPS") received a request for proposals and the awarded contract pertaining to a specified request for proposals. You state you have released some information to the requestor. Although you take no position regarding whether the remaining requested information is excepted from disclosure, you state its release may implicate the proprietary interests of Clarify Health Solutions, Intellimed, Sg2, and Stratasan. Accordingly, you state, and provide documentation showing, you notified these interested third parties of the request and their right to submit arguments to this office. *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 Intellimed. We have considered the submitted arguments.

Initially, we must address JPS's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which

parts of the documents. *Id.* § 552.301(e). In this instance, you state JPS received the request for information on July 7, 2022. As of the date of this letter, you have not submitted for our review a copy or representative sample of the information requested. Consequently, we find JPS failed to comply with the requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although Intellimed raises exceptions to disclosure, because JPS has not submitted the remaining requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the remaining requested information released pursuant to section 552.302. If you believe the information may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 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 <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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/eb

Ref: ID# 974416

Enc. Submitted documents

c: Requestor
(w/o enclosures)

5 Third Parties
(w/o enclosures)