



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 7, 2010

Ms. Neera Chatterjee  
The University of Texas System  
Office of General Counsel  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2010-04850

Dear Ms. Chatterjee:

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# 375380.

The University of Texas at Arlington (the "university") received a request for copies of proposals submitted by Siemens Building Technologies, Inc. ("Siemens") and DMI Entegral Solutions Group ("DMI"), as well as scoring sheets from the university's selection committee pertaining to UTA RFQ #FM-1020-006. The university takes no position as to the release of the information responsive to this request. However, you indicate that the submitted information may implicate the proprietary interests of Siemens and DMI. Accordingly, you inform us, and provide documentation showing, that pursuant to section 552.305 of the Government Code, the university has notified Siemens and DMI of the request and of their right to submit arguments to this office explaining why this information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from DMI. We have considered the submitted arguments and reviewed the submitted information.

You inform this office that DMI's information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-04242 (2010). In Open Records Letter No. 2010-04242, we ruled that DMI had established that a portion of its information constituted commercial or financial information, the release of which would cause the company substantial competitive harm. Therefore, we concluded that the university must withhold the information we had marked under section 552.110(b) of the Government Code. However, we found DMI made only conclusory allegations that the release of its remaining information would result in substantial damage to its competitive position. Thus, DMI had not demonstrated that substantial competitive injury would result from the release of any of the remaining information. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the university must continue to rely on that ruling as a previous determination and withhold or release DMI's information in accordance with Open Records Letter No. 2010-04242. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body; and ruling concludes that information is or is not excepted from disclosure).

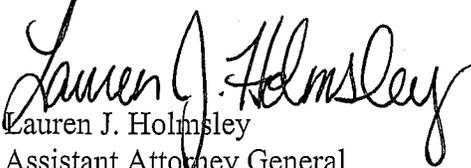
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received any arguments from Siemens. Thus, we have no basis for concluding that any portion of the submitted information constitutes the proprietary information of Siemens. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3. Accordingly, the university may not withhold any of the submitted information based on the proprietary interests of Siemens. As no exceptions to disclosure have been claimed for Siemens's information, that information must be released.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

  
Lauren J. Holmsley  
Assistant Attorney General  
Open Records Division

LJH/jb

Ref: ID# 375380

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Klip Weaver  
DMI Entegral  
809 Office Park Circle, Suite 100  
Lewisville, Texas 75057

Mr. Jacob Richardson  
Siemens Industry, Inc.  
8600 North Royal Lane, Unit 100  
Dallas, Texas 75063  
(w/o enclosures)