



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 29, 2010

Ms. Jordan Hale
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2010-06219

Dear Ms. Hale:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 379498 (PIR No. 10-27357).

The Office of the Attorney General (the "OAG") received a request for all responses and presentation materials submitted for the ChildLink IV-D Program RFI. The OAG takes no position as to disclosure of the information. Rather, because release of the information may implicate the proprietary interests of Celtic Insurance Company, Policy Studies, Inc. ("PSI"), Health Management Systems, Inc., and UnitedHealthcare, the OAG notified the companies of the request and of their right to submit arguments to this office as to why their information should not be released. Gov't Code § 552.305(d) (permitting third party with proprietary interest 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 Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances).

First, we note except for PSI's information, the rest was addressed in Open Records Letter No. 2010-03929 (2010). In that decision, this office concluded the OAG must release the vendors' responses because they did not submit reasons explaining why their information is proprietary and should not be released. Thus, the OAG must continue to rely on Open Records Letter No. 2010-03929 and release the information.

As for PSI's information, 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) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, PSI has not submitted to this office any reasons explaining why its information should not be released. We thus have no basis to conclude release of the information will harm PSI's proprietary interests. *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 (1990). Accordingly, the OAG may not withhold PSI's information based on any proprietary interests it may have. The OAG must release the information.

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, 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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/em

Ref: ID# 379498

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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