



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 30, 2010

Mr. Quentin D. Price  
Senior Assistant City Attorney  
City of Beaumont  
P.O. Box 3827  
Beaumont, Texas 77704-3827

OR2010-09637

Dear Mr. Price:

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# 385166.

The City of Beaumont (the "city") received a request for all vendors' responses to a specified RFP, excluding the requestor's bid, the evaluations of the bids, and a copy of the contract entered into pursuant to the award, including pricing information from the winning bidder. You claim the requested information is excepted from disclosure under sections 552.101, 552.104, and 552.110 of the Government Code. You also state the request may implicate the proprietary interests of third parties. Accordingly, pursuant to section 552.305 of the Government Code, you state you have notified the following third parties: Envision Rx Pharmaceutical Services ("Envision"); Scott & White Health Plan ("Scott & White"); RESTAT; Medco Health Solutions ("Medco"); Navitus Health Solutions ("Navitus"); LDI Integrated Pharmacy Services ("LDI"); CVS Caremark ("Caremark"); and Script Care, Ltd. ("Script Care") of the request and of each company's right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *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 to disclosure under Act in certain circumstances). We have received comments from Envision, Medco, LDI, and Caremark. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note portions of the requested information are the subject of litigation pending against the Office of the Attorney General. *See Medco Health Solutions v. Abbott*, No. D-1-GN-10-000215 (200th Dist. Ct., Travis County, Tex.) and *Caremark v. Abbott*, No. D-1-GN-09-004191 (419th Dist. Ct., Travis County, Tex.). Accordingly, we will allow the trial court to resolve the issue of whether the information at issue must be released to the public.

Next, we note the remaining information was the subject of two previous requests, as a result of which this office issued Open Records Letter Nos. 2009-17301 (2009) and 2010-02393 (2010). In Open Records Letter No. 2009-17301, we determined the city must withhold the portions of LDI's, Envision's, Scott & White's, and InformedRx's information we marked under section 552.110 of the Government Code and the information we marked under section 552.136, but must release the remainder of the information at issue in accordance with copyright law. In Open Records Letter No. 2010-02393, we determined that the city must rely on Open Records Letter No. 2009-17301 and release the remaining information at issue in accordance with copyright law. As we have no indication that there has been any change in the law, facts, or circumstances on which the previous rulings were based, we conclude the city must rely on Open Records Letter Nos. 2009-17301 and 2010-02393 as previous determinations and continue to treat the previously ruled upon information in accordance with those rulings. *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).

In summary, we will allow the trial court to resolve the issue of whether the information at issue in the pending litigation must be released to the public. The city must continue to rely on Open Records Letter Nos. 2009-17301 and 2010-02393 and withhold or release the same information that was at issue in the prior rulings in accordance with those rulings.<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.

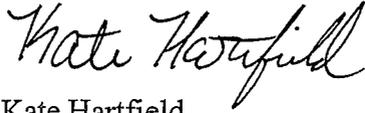
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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

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,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/dls

Ref: ID# 385166

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. James H. Ferrick III  
Greensfelder  
For LDI Integrated Pharmacy Services  
10 South Broadway, Suite 2000  
St. Louis, Missouri 63102  
(w/o enclosures)

Ms. Dara J. Garel  
Associate Legal Counsel  
Envision Pharmaceutical Services, Inc.  
2181 East Aurora Road  
Twinsburg, Ohio 44087  
(w/o enclosures)

Mr. Richard L. Josephson  
Baker Botts LLP  
For Medco Health Solutions, Inc.  
One Shell Plaza  
910 Louisiana  
Houston, Texas 77002-4995  
(w/o enclosures)

Mr. Robert H. Griffith  
Foley & Lardner LLP  
For Caremark, L.L.C.  
321 North Clark Street, Suite 2800  
Chicago, Illinois 60610-4764  
(w/o enclosures)

Scott & White  
4236 Lowes Drive  
Temple, Texas 76502  
(w/o enclosures)

Ms. Karen Miller  
RESTAT  
724 Elm Street  
West Bend, Wisconsin 53095  
(w/o enclosures)

Ms. Toni Hass  
Scriptcare, Ltd.  
6380 Folsom Drive  
Beaumont, Texas 77706  
(w/o enclosures)

Mr. Dave Guerrero  
Navitus Health Solutions  
999 Fourier Drive, Suite 301  
Madison, Wisconsin 53717  
(w/o enclosures)