



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2010

Mr. Jim Morris  
Chief Executive Officer  
Lynn County Hospital District  
P.O. Box 1310  
Tahoka, Texas 79373

OR2010-11253

Dear Mr. Morris:

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# 388937.

The Lynn County Hospital District (the "district") received a request for the contract with Opus Healthcare Solutions for the clinical information system and proposals from all bidders pertaining to a specified request for proposals. You state you have no information responsive to the request for proposals.<sup>1</sup> Although you raise section 552.110 of the Government Code as a possible exception to disclosure for portions of the submitted information, you make no argument as to whether the submitted information is excepted from disclosure under that section. Instead, you state, and provide documentation showing, you have notified NextGen Healthcare ("NextGen") 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.<sup>2</sup> See Gov't Code § 552.305(d); Open Records Decision No. 542 (statutory predecessor to section 552.305 allows a governmental body to rely on an interested third party to raise and explain the applicability of the exception to disclosure in certain circumstances). We have reviewed the submitted 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 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, NextGen has not submitted to this office

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>You state Opus Healthcare Solutions, Inc. has changed its name to NextGen Healthcare.

any reasons explaining why the submitted information should not be released. We therefore have no basis for concluding any of the submitted information constitutes proprietary information of NextGen, and the district may not withhold any portion of the submitted information on the basis of any proprietary interests NextGen may have in the information. *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). As no exceptions to disclosure are raised, the submitted 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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/jb

Ref: ID# 388937

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. John Beck  
NextGen Healthcare  
12301-B Riata Trace Parkway, Suite 200  
Austin, Texas 78759  
(w/o enclosures)