



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 30, 2010

Ms. Maria Miller
Public Information Officer
Dallas County Community College District
1601 South Lamar, Suite 208
Dallas, Texas 75215-1816

OR2010-11498

Dear Ms. Miller:

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# 388598.

The Dallas County Community College District (the "district") received a request for all proposals submitted in response to RFP #11527.¹ Although you state the district takes no position with respect to the public availability of the submitted proposals, you state their release may implicate the proprietary interests of GE Healthcare; Shimadzu Medical Systems Corporation; Excel Imaging, Inc.; Medical Digital Imaging of Texas, Inc.; and Merry X-Ray Chemical Corporation (collectively, the "third parties"). Accordingly, you notified the third parties of the request and of their right to submit arguments to this office as to why their respective proposals should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under Act in certain circumstances). We have reviewed the submitted information.

Initially, we must address the district's obligations under the Act. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that

¹As you have not submitted a copy of the request for information, we take our description from your brief.

receives a written request for information it wishes to withhold. Pursuant to section 552.301(e) of the Government Code, the governmental body is required to submit to this office within fifteen business days of receiving the request (1) general 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. Gov't Code § 552.301(e). As of the date of this letter, you have not submitted to this office a copy of the written request for information. Thus, we find the district failed to comply with the requirements of section 552.301.

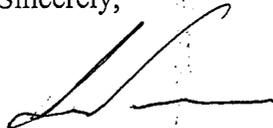
Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *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); *see also* Open Records Decision No. 630 (1994). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Because third party interests are at stake, we will address whether the submitted proposals must be withheld to protect the interests of the third parties.

An interested third party is allowed ten business days after the date of its receipt of a 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 that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the third parties has submitted comments to this office explaining why any portion of the submitted proposals should not be released to the requestor. Thus, we have no basis to conclude the release of any portion of the proposals would implicate the third parties' proprietary interests, and none of the information may be withheld on that basis. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence 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 proposals 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, 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 388598

Enc. Submitted documents

c: Requestor
(w/o enclosures)