



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 1, 2010

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

OR2010-16468

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# 398669 (OGC# 132449).

The University of Texas Medical Branch at Galveston (the "university") received a request for all proposals submitted and the contract entered into regarding payment processing software. You state the university does not have any information responsive to the request for proposals because the contract at issue was a sole source procurement and there was no request for proposals associated with the contract.<sup>1</sup> Although you state the university takes no position with respect to the public availability of the submitted contract, you state its release may implicate the proprietary interests of Computer Systems Company, Inc. ("CSC"). Accordingly, you state, and provide documentation showing, the university notified CSC of the request and of its right to submit arguments to this office as to why the submitted contract 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.

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, we have not received comments from CSC

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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).

explaining why the submitted contract should not be released. Therefore, we have no basis to conclude CSC has protected proprietary interests in this 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), 542 at 3; *see also* Open Records Decision No. 541 at 8 (1990) (public has interest in knowing terms of contract with state agency). Consequently, the university may not withhold the submitted contract on the basis of any proprietary interests CSC may have in the contract.

We note some information submitted as an addendum to the contract may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. Thus, as no exceptions to disclosure have been claimed, the submitted contract must be released, but any information protected by copyright must be released in accordance with copyright law.

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 398669

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Robert Zimmerman  
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Strongsville, Ohio 44149-5565  
(w/o enclosures)