



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 7, 2011

Ms. Zeena Angadicheril
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2011-01863

Dear Ms. Angadicheril:

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# 408393 (OGC# 134187).

The University of Texas System (the "system") received a request for the following categories of information relating to a request for proposals pertaining to TPIA/Self-Pay Collections and Third Party Collections: (1) the signed contracts; (2) the evaluation or scoring documents, including vendors' prices; (3) a list of companies that submitted proposals; and (4) any reports regarding contract performance. You state the system will provide to the requestor the information responsive to category three. You also state the system does not have any information responsive to category four.¹ Although you state the system takes no position with respect to the public availability of the submitted contract and scoring documents, you state their release may implicate the proprietary interests of Absolute Collection Service; Account Services USA; Alliance One; Avante USA; Bay Area Credit Service; The CBE Group; CCA; Credit Systems International, Inc.; Cymetrix Corporation; Diversified Healthcare Affiliates, Inc.; Financial Corporation of America; FMA Financial; HSI Financial; Linebarger Goggan Blair & Sampson; Max Revenue Solutions; MiraMed Evenue Group, LLC; Nationwide Recovery Service; NCO Financial Systems, Inc.; Penn Credit Corporation; PHNS, Inc.; Receivable Management, Inc.; Sarma Collections, Inc.; Select Billing & Collection Services, Ltd.; and The SSI Group. Accordingly, you state, and

¹The 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).

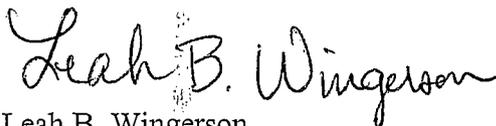
provide documentation showing, the system notified these companies of the request and of each company's right to submit arguments to this office as to why the submitted contract and scoring information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (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 any of the notified third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the companies have 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 (1990). Consequently, the system may not withhold any of the submitted contract and scoring information on the basis of any proprietary interests the third parties may have in the information. As no exceptions to disclosure have been claimed, 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, 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/em

Ref: ID# 408393

Enc. Submitted documents

c: Requestor
(w/o enclosures)

NCO Financial Systems, Inc.
Legal Department/Contracts
507 Prudential Road
Horsham, Pennsylvania 19044
(w/o enclosures)

Cymetrix Corporation
Chief Financial Officer
2875 Michelle, Suite 250
Irvine, California 92606
(w/o enclosures)

Mr. Joe Miserendino
MiraMed Revenue Group, LLC
991 Oak Creek Drive
Lombard, Illinois 60148
(w/o enclosures)

Mr. Nick Michael
The CBE Group
131 Tower Park Drive, Suite 100
Waterloo, Iowa 50701
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Mr. Jonathan Byrd
The SSI Group
c/o Ms. Zeena Angadicheril
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Mr. Lee Croucher
Select Billing & Collection Services, Ltd.
c/o Ms. Zeena Angadicheril
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Mr. Victor Bolanos
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Receivable Management, Inc.
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Mr. Greg Williams
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Mr. Richard Templin
Penn Credit Corporation
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Mr. Craig Fetner
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Mr. Russell Moore
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Mr. Scott Wylie
Linebarger Goggan Blair & Sampson
c/o Ms. Zeena Angadicheril
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Mr. David Pickett
Financial Corporation of America
c/o Ms. Zeena Angadicheril
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Mr. Jerry O'Connor
Diversified Healthcare Affiliates, Inc.
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Ms. Kathy Faith
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Mr. Ken Tompkins
Account Services USA
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Mr. David Culbertson
Bay Area Credit Service
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Mr. Rob Class
Absolute Collection Service
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Avante USA
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