



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 18, 2011

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

OR2011-05347

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# 417595 (OGC# 135770).

The University of Texas Health Science Center at Tyler (the "university") received a request for the contracts and proposals associated with seven specified purchases by the university. The university states it has released some of the responsive information to the requestor. Although you state the university takes no position with respect to the public availability of the submitted information, you state its release may implicate the proprietary interests of third parties.¹ Accordingly, you state, and provide documentation showing, the university notified the interested third parties of the request and of their right to submit arguments to this office as to why the submitted 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.

We note 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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should not be released. *See* Gov't Code § 552.305(d)(2)(B). We have received comments from superDimension, Inc., but they claim no exceptions and make no arguments against disclosure of the requested information. Further, as of the date of this letter, we have not received any comments from

¹The interested third parties are: Applied Biosystems, Inc.; Global Medical Instrumentation, Inc.; AtPar, Inc.; Carl Zeis MicroImaging, Inc.; superDimension, Inc.; Olympus America Corporation; Leeds Instruments, Inc.; and Leica Microsystems.

any of the remaining interested third parties. Thus, none of the interested third parties have demonstrated they have a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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. Accordingly, the university may not withhold any of the submitted information based on the proprietary interests of the interested third parties. As no exceptions against the disclosure of the submitted information have been raised, it 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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/tf

Ref: ID# 417595

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Robert J. Lang
Technical Manager
Leeds Instruments, Inc.
8150 Springwood Drive, Suite 125
Irving, Texas 75063
(w/o enclosures)

Ms. Maureen Schnunk
Leica Microsystems
2345 Waukegan Road
Bannockburn, Illinois 60015
(w/o enclosures)

Mr. Kevin J. Seguin
Global Medical Instrumentation, Inc.
6511 Bunker Lake Boulevard
Ramsey, Minnesota 55303
(w/o enclosures)

Mr. Wade Cross
superDimension, Inc.
161 Cheshire Lane, Suite 100
Plymouth, Minnesota 55441-5433
(w/o enclosures)

Mr. Brent Watkins
MP Sales Representative
Olympus America Corporation
3131 West Royal Lance
Irving, Texas 75063
(w/o enclosures)

Ms. Enia Meikle
Carl Zeiss MicroImaging, Inc.
One Zeiss Drive
Thornwood, New York 10594
(w/o enclosures)

Mr. Kameswara Vysyaraju
AtPar, Inc.
115 Etna Road, Building 2, Suite 2
Lebanon, New York 03766
(w/o enclosures)

Applied Biosystems, Inc.
850 Lincoln Centre Drive
Foster City, California 94404
(w/o enclosures)