



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 25, 2011

Mr. Carey E. Smith  
General Counsel  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

OR2011-07407

Dear Mr. Smith:

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# 419335 (Commission OR-20110315-5806, OR-20110321-5820, OR-20110412-5866).

The Texas Health and Human Services Commission (the "commission") received three requests for the winning bidder's bid response and resulting contract and amendments for Request For Proposals No. 529-08-0135. You state you have released most of the requested information. Although the commission takes no position with respect to the remaining requested information, you state release of this information may implicate the proprietary interests of a third party. Accordingly, you state, and provide documentation demonstrating, you notified Maximus, Inc. ("Maximus") 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. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the present request for information because it does not pertain to the specified Request for Proposals. Accordingly, this ruling will not address such non-responsive information and the commission need not release it in response to this request.

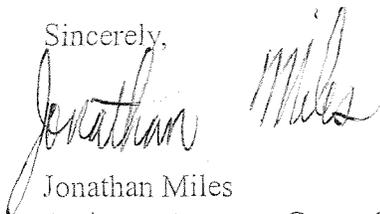
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from

Maximus explaining why the submitted information should not be released. Therefore, we have no basis to conclude Maximus has protected proprietary interests in the submitted 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. Accordingly, the commission may not withhold the submitted information on the basis of any proprietary interests Maximus may have in the information. As no exceptions to disclosure have been raised, the submitted information must be released to the requestor.

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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 419335

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

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