



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 30, 2011

Ms. Traci S. Briggs
Deputy City Attorney
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2011-12533

Dear Ms. Briggs:

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# 428688 (City ID# W005755).

The City of Killeen (the "city") received a request for the winning proposal for the request for proposal ("RFP") on medical insurance, including rates and benefits sold. You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.110 of the Government Code. You also state that release of this information may implicate the proprietary interests of Scott & White Health Plan ("Scott & White"). Accordingly, you state, and provide documentation showing, you notified Scott & White 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 considered the exception you claim and reviewed the submitted information.

Although the city raises section 552.110 of the Government Code for the submitted information, section 552.110 is designed to protect the interests of third parties, not the interests of a governmental body. Thus, we do not address the city's argument under section 552.110 for the submitted information. We note that 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, this office has not received comments from Scott & White explaining why its requested information should not be released. Therefore, we have no

basis to conclude that Scott & White has a protected proprietary interest 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). Accordingly, the city may not withhold any portion of the submitted information based upon the proprietary interests of Scott & White. As no further exceptions to disclosure have been raised, 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,



Kirsten Brew
Assistant Attorney General
Open Records Division

KB/em

Ref: ID# 428688

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Katherine Garrett
Scott & White Health Plan
Account Manager
2401 South 31st Street
Temple, Texas 76508
(w/o enclosures)