



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 9, 2011

Ms. Ashley D. Fourt  
Assistant District Attorney  
Tarrant County  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR2011-13969A

Dear Ms. Fourt:

This office issued Open Records Letter No. 2011-13969 (2011) on September 26, 2011. In that ruling, we determined the Medical Center of Plano's Center for Lifestyle Enhancement (the "center") had not submitted comments to this office explaining why its information should not be released. Thus, we had no basis to withhold the center's information and ordered its release. The center subsequently submitted comments to this office explaining why its information should not be released. We have considered the center's comments. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on September 26, 2011. *See generally id.* § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act).

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# 431252.

The Tarrant County Purchasing Department (the "county") received a request for the proposals submitted in response to a specified request for proposals. Although you take no position with respect to the public availability of the requested information, you state the proprietary interests of certain third parties might be implicated. Accordingly, you notified Lone Star Screening ("Lone Star") and the center of the request and of their right to submit arguments to this office explaining why their information should not be released. *See Gov't Code* § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *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 applicability of exception in certain

circumstances). We have considered the center's comments and reviewed the submitted information.

Initially, we note you have submitted information that is not responsive to the request. The requestor seeks information concerning a specified request for proposals. Thus, the e-mails we have marked, which pertain to a different topic, and the memo we have marked, which is not a response to the request for proposals, are not responsive to this request. Our ruling does not address the public availability of non-responsive information, and the county need not release information that is not responsive to the request.

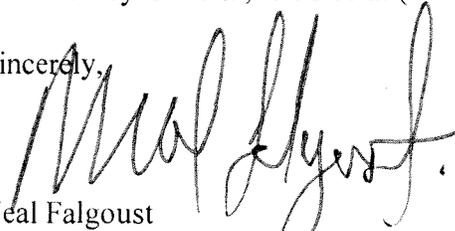
An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from Lone Star. Thus, Lone Star has not demonstrated it has 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 county may not withhold the submitted information on the basis of any proprietary interest Lone Star may have in the information. As you raise no exceptions to disclosure for Lone Star's information, it must be released in its entirety.

The center raises section 552.110(b) of the Government Code for its pricing information. Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" Gov't Code § 552.110(b). This exception to disclosure requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* ORD 661 at 5-6. The county informs us the center was the winner bidder for the contract to which the pricing information at issue pertains. We note the pricing information of a winning bidder is generally not excepted from disclosure under section 552.110(b). This office considers the prices charged in government contract awards to be a matter of strong public interest. *See* Open Records Decision No. 514 (1988) (public has interest in knowing prices charged by government contractors). *See generally* Dep't of Justice Guide to the Freedom of Information Act 344-345 (2009) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). Accordingly, the county may not withhold the center's pricing information pursuant to section 552.110(b) of the Government Code. As the center raises no other exceptions to disclosure for its information, it must be released in its entirety.

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,



Neal Falgoust  
Assistant Attorney General  
Open Records Division

NF/agn

Ref: ID# 431252

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)

Ms. Lisa Engel  
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