



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 27, 2012

Ms. Jordan Hale
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2012-04475

Dear Ms. Hale:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 448885 (PIR Nos. 12-32501 and 12-32628).

The Office of the Attorney General (the "OAG") received requests for information concerning RFO 270752. The OAG released some information and takes no position as to disclosure of the remaining information. Because release of the information may implicate the proprietary interests of Health Management Systems, Inc. ("HMS"), the OAG notified HMS of the request and of its right to submit arguments to this office as to why its information should not be released. Gov't Code § 552.305(d) (permitting third party with proprietary interest to submit to attorney general reasons why requested information should not be released).

HMS seeks to withhold its pricing information under section 552.110(b) of the Government Code, which excepts from public disclosure commercial 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.¹ Gov't Code § 552.110(b). The interested third party raising section 552.110(b) must provide a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial

¹HMS seeks to withhold information the OAG has not submitted. This decision does not address information the OAG did not submit.

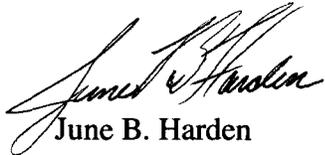
competitive injury would likely result from disclosure. *Id.* § 552.110(b); *see also Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

This office has held the pricing information of a winning bidder is generally not excepted under section 552.110(b) because we consider the prices charged in government contract awards to be a matter of strong public interest. *See* Open Records Decision Nos. 514 (1988) (public has interest in knowing prices charged by government contractors), 494 (1988) (requiring balancing of public interest in disclosure with competitive injury to company); *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). Here, HMS is the winning bidder. We therefore find HMS's pricing information is not excepted from disclosure under section 552.110(b). The OAG must release the information.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/YHL/sdk

Ref: ID# 448885

Enc: Submitted documents

c: 2 Requestors
(w/o enclosures)

Ms. Barbara Saunders
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(w/o enclosures)