



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 6, 2012

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

OR2012-14115

Dear Ms. Hale:

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# 464453 (PIR Nos. 12-33734 and 12-34032).

The Office of the Attorney General (the "OAG") received two requests for a specified contract. You state some information has been released. Although the OAG takes no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Texas NICUSA, LLC ("NICUSA"). Accordingly, you state you have notified NICUSA of the request and its right to submit arguments to this office. *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.

We note 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 ruling, we have not received comments from NICUSA. Thus, we have no basis to conclude NICUSA 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 OAG may not withhold any of the information at issue on the basis of any proprietary interest NICUSA may have in the information. As no exceptions to disclosure are raised, the OAG must release the submitted information to the requestors.

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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/som

Ref: ID# 464453

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Jeffrey A. McCartney  
Texas NICUSA, LLC  
100 Congress Avenue, Suite 600  
Austin, Texas 78701  
(w/o enclosures)