



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2012

Ms. Melissa Garcia
Attorney
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2012-17847

Dear Ms. Garcia:

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# 470444 (OGC# 146029).

The University of Texas Medical Branch at Galveston (the "university") received a request for the contract with CCH Incorporated, MediRegs ("MediRegs") for risk management software and proposals from all bidders associated with the award of that contract. Although you take no position on the public availability of the submitted information, you state the release of the submitted information may implicate the proprietary interests of MediRegs. Accordingly, you inform us, and provide documentation showing, you notified MediRegs of the request and of the company's right to submit comments to this office as to why the requested information should not be released to the requestor. *See Gov't Code § 552.305(d), see also Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances).* We have received comments from MediRegs. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the portion of the request for all proposals associated with the awarded contract at issue. To the extent information responsive to this portion of the request existed on the date the university received the

request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

MediRegs asserts some of its submitted information consists of commercial or financial information, the release of which would cause the company substantial competitive harm. 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[.]” *Id.* § 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* Open Records Decision No. 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).

Upon review, we find MediRegs has made only conclusory allegations that the release of any of its information would result in substantial harm to its competitive position. *See* ORD 661 at 5-6 (for information to be withheld under commercial or financial information prong of section 552.110, business must show by specific factual evidence that substantial competitive injury would result from release of particular information at issue). Furthermore, we note the contract at issue was awarded to MediRegs. This office considers the prices charged in government contract awards to be a matter of strong public interest; thus, the pricing information of a winning bidder is generally not excepted under section 552.110(b). *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, none of MediRegs information may be withheld under section 552.110(b) of the Government Code. As no further exceptions to disclosure were 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/dls

Ref: ID# 470444

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Tim Kennedy
Director of Health Operations
MediRegs
2700 Lake Cook Road
Riverwoods, Illinois 60015-3867
(w/o enclosures)