



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2013

Ms. Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2013-07892

Dear Ms. Chatterjee:

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# 487788 (OGC #148926).

The University of Texas Health Science Center at Houston (the "university") received a request for (1) a specified audit; (2) records concerning "any TEEM royalties returned to vendors"; and (3) "any sole-sourced vendor contracts issued by CLI since 2003." You inform us the university is releasing information responsive to item 1 of the request. Although the university takes no position as to whether the submitted information is excepted under the Act, the university informs us release of this information may implicate the proprietary interests of Liberty Source ("Liberty"). Accordingly, the university notified Liberty of the request for information and of Liberty's 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 Act in certain circumstances). We have reviewed the submitted information.

You state the university sought clarification of item 3 of the request for information. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification

or narrowing of unclear or over-broad request for public information, ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You state the university has not received a response to the request for clarification. Thus, for the portion of the requested information for which you have sought but have not received clarification, we find the university is not required to release information in response to this portion of the request. However, if the requestor clarifies this portion of the request for information, the university must seek a ruling from this office before withholding any responsive information from the requestor. *See id.*

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, Liberty has not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude Liberty 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), 542 at 3. Accordingly, the university may not withhold any portion of the submitted information based upon the proprietary interests of Liberty.

We note portions of the submitted information are subject to section 552.136 of the Government Code.¹ This section provides in part that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov't Code § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). Accordingly, the university must withhold the bank account and routing numbers we have marked under section 552.136 of the Government Code. As no further exceptions to disclosure are raised for the remaining information, the university must release it.

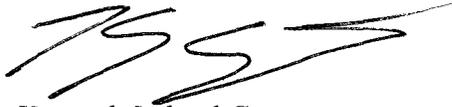
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 487788

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)