



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 11, 2016

Mr. R. Brooks Moore  
Managing Counsel, Governance  
Texas A&M University System  
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College Station, Texas 77840-7896

OR2016-03361

Dear Mr. Moore:

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# 598008 (TAMU 15-977).

Texas A&M University (the "university") received a request for a specified agreement to establish and operate the university in Qatar. Although the university takes no position as to whether the submitted information is excepted under the Act, it states release of the submitted information may implicate the proprietary interests of the Qatar Foundation for Education, Science and Community Development ("Qatar Foundation"). Accordingly, the university states, and provides documentation showing, it notified Qatar Foundation of the request for information and of its 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 the Act in certain circumstances). We have received comments from Qatar Foundation. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note at least some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-17822 (2015). In Open Records Letter No. 2015-17822, we determined the university must release the submitted information. However, Qatar Foundation now argues the submitted information is excepted from disclosure under section 552.110 of the Government Code. Although the university notified Qatar Foundation pursuant to section 552.305 of the Government Code when the university received the previous request for information, Qatar Foundation did not submit comments objecting to the release of the submitted information in the previous ruling. Accordingly, in our previous ruling, we determined the university must release the submitted information. Section 552.007 of the

Government Code provides, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure, unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007. We note, because information subject to section 552.110 is deemed confidential by law, we will address Qatar Foundation's claim under this exception for the previously released information. We will also consider Qatar Foundation's argument under section 552.110 of the Government Code for any of the submitted information that was not at issue in the previous ruling.

Qatar Foundation contends the submitted information is excepted from disclosure under section 552.110(b) of the Government Code. Section 552.110(b) protects "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence 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, substantial competitive injury would likely result from release of the information at issue. *Id.*; *see also* Open Records Decision No. 661 at 5 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm).

As mentioned above, Qatar Foundation's information was subject to Open Records Letter No. 2015-17822. In the prior ruling, the university notified Qatar Foundation of the request for information pursuant to section 552.305 of the Government Code. Qatar Foundation did not object to the release of the information at issue. Since the issuance of the previous ruling on August 26, 2015, Qatar Foundation has not disputed this office's conclusion regarding the release of the information. In this regard, we find Qatar Foundation has not taken any measures to protect the information at issue in order for this office to conclude the information now either qualifies as commercial or financial information, the release of which would cause Qatar Foundation substantial harm. *See* Gov't Code § 552.110(b); *see also* ORD 661. Accordingly, we conclude the university may not withhold the information that was at issue in Open Records Letter No. 2015-17822 under section 552.110(b) of the Government Code.

To the extent the submitted information was not at issue in Open Records Letter No. 2015-17822, we address Qatar Foundation's submitted arguments. Qatar Foundation argues the submitted information consists of commercial information, the release of which would cause it substantial competitive harm under section 552.110(b) of the Government Code. Upon review, we find Qatar Foundation has not made the specific factual or evidentiary showing required by section 552.110(b) that release of any of its information would cause the company substantial competitive harm. *See* ORD 661. We note this office considers the prices charged in government contracts to be a matter of strong public interest; thus, pricing information 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 344-45 (2009) (federal cases applying analogous Freedom of Information Act reasoning that disclosure of prices charged government is a cost of doing business with government). Further, the terms of a contract with a governmental body are generally not excepted from public disclosure. *See* Gov't Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public); Open Records Decision No. 541 at 8 (public has interest in knowing terms of contract with state agency). Therefore, the university may not withhold any of the submitted information under section 552.110(b). As no other exceptions are raised, the university must release the submitted 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus  
Assistant Attorney General  
Open Records Division

DLW/bhf

Ref: ID# 598008

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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(w/o enclosures)