



December 27, 1999

Ms. Deborah C. Hiser  
Hilgers and Watkins  
98 San Jacinto Boulevard  
Austin, Texas 78701

OR99-3756

Dear Ms. Hiser:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130542.

The Austin Travis County Mental Health Mental Retardation Center (“ATCMHMR”) received a request for any and all records or documents related to ATCMHMR’s requests for proposals (“RFP”) for property management services for the years 1998 and 1999. You have released certain responsive information to the requestor. You claim, however, that Asset Plus, Inc. (“Asset”) has objected to the release of portions of its proposal information. You raise no exception to disclosure on behalf of ATCMHMR, and make no arguments regarding the proprietary nature of Asset’s information.

Pursuant to section 552.305 of the Government Code, you notified Asset of the request for information. Asset had the opportunity to submit to our office within ten business days after receiving ATCMHMR’s notice the reason or reasons why the information should be withheld and a letter, memorandum, or brief in support of the proffered reasons. Gov’t Code § 552.305(b); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov’t Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in Public Information Act in certain circumstances). To date, we have not received any correspondence from Asset regarding its third-party interests. Consequently, we have no basis to conclude that the submitted information is excepted from disclosure. *See* Gov’t Code § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision

Nos. 552 at 5 (1990) (party must establish prima facie case that information is trade secret), 542 at 3 (1990). Therefore, ATCMHMR may not withhold the submitted information under section 552.110 of the Government Code.

We note that the submitted documents contain information protected from disclosure by section 552.101 of the Government Code. The social security numbers in the documents may be confidential if they were obtained or are maintained by ATCMHMR pursuant to any provision of law enacted on or after October 1, 1990. 42 U.S.C. § 405(c)(2)(C)(vii); *see* Open Records Decision No. 622 (1994).

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ch

Ref: ID# 130542

Encl. Submitted documents

cc: Mr. Mehron P. Azarmehr  
Azarmehr & Associates, P.C.  
316 West 12<sup>th</sup> Street, Suite 300  
Austin, Texas 78701  
(w/o enclosures)