



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 21, 2009

Mr. Scott A. Kelly
Interim General Counsel
The Texas A&M University System
Office of General Counsel
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2009-00815

Dear Mr. Kelly:

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# 333072.

Texas A&M University (the "university") received a request for the winning bid submitted in response to request for proposals Main 07-0020 pertaining to Electronic Medical Records Systems. Although you take no position as to the disclosure of the requested information, you state the information may implicate the proprietary interests of a third party. You also state, and provide documentation showing, you have notified Point and Click Solutions, Inc. ("Point and Click") of the request and of its opportunity 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 the applicability of exception to disclose under 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 under section 552.305(d) to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Point and Click has not submitted to this office any reasons explaining why the requested information should not be released. Therefore, because Point and Click has not demonstrated any of the submitted information is proprietary for purposes of the Act, the university may not withhold any of the submitted information to protect Point and Click's interest. *See id.* § 552.110; *see also* 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

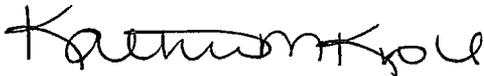
is trade secret), 542 at 3 (1990). As the university raises no exceptions to disclosure, the submitted information must be released to the requestor.

However, we note some of the submitted information is protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990).

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 at (512) 475-2497.

Sincerely,



Katherine M. Kroll
Assistant Attorney General
Open Records Division

KMK/eeg

Ref: ID# 333072

Enc. Submitted documents

c: Requestor
(w/o enclosures)

cc: Mr. David Tan
Point and Click Solutions, Inc.
6 Lincoln Knoll Lane #101
Burlington, Massachusetts 01803
(w/o enclosures)