



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 3, 2009

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

OR2009-04368

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# 340191.

The University of Texas System (the "university") received a request for proposals submitted in response to a specified RFP, including resulting scoring sheets. You claim that the submitted information is excepted from disclosure under sections 552.104 and 552.136 of the Government Code. You also state release of the requested information may implicate the proprietary interests of Medical Business Management Services, Inc. Accordingly, you have notified this company of the request and of its opportunity to submit arguments to this office as to why its information should be excepted from public disclosure. *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 considered the exceptions you claim and reviewed the submitted information.

Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect a governmental body's interests in competitive bidding situations, including where the governmental body may wish to withhold information in order to obtain more favorable

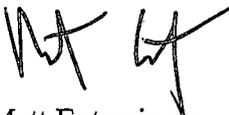
offers. *See* Open Records Decision No. 592 at 8 (1991). Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a bidder will gain an unfair advantage will not suffice. Open Records Decision No. 541 at 4 (1990). Generally, section 552.104 does not except information relating to competitive bidding situations once a contract has been awarded and is in effect. *See id.* at 5. However, this office has determined that under some circumstances, section 552.104 may apply to information pertaining to an executed contract where the governmental body solicits bids for the same or similar goods or services on a recurring basis. *Id.*

You inform us that the submitted information relates to an RFP issued in 2006 by the university for medical bill and audit claims management services. You state a new RFP for these services has been issued, the bid has not been awarded yet, and the bidding process was pending when the university received the present request for information. You argue that release of the submitted information "could impair the [university's] efforts at procuring and negotiating a contract related to this RFP." Based on these representations, we find that release of the submitted information would harm the interests of the university in a particular ongoing competitive situation. Accordingly, the university may withhold the submitted information in its entirety under section 552.104 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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](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,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/dls

Ref: ID# 340191

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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Mr. Brady Alfred  
Medical Business Management Services, Inc.  
4635 Southwest Freeway, Suite 600  
Houston, Texas 77027  
(w/o enclosures)

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