



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2011

Ms. Connie Crawford
Assistant County Attorney
Legal Department
El Paso County Hospital District
4815 Alameda, 8th Floor, Suite B
El Paso, Texas 79905

OR2011-15862

Dear Ms. Crawford:

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# 434644 (File No. HO-11-240).

The El Paso County Hospital District (the "district") received a request for four categories of information pertaining to RFQ # 935-02/09-001: (1) a copy of the signed contracts; (2) a copy of the evaluations/scoring document, including prices submitted by all vendors; (3) a list of companies that requested the RFP and that submitted proposals; and (4) any reports related to contract performance. You state the district has released the information requested in items 1 and 3. You also state the district does not have information responsive to item 4.¹ Although you take no position as to whether the submitted information is excepted under the Act, you inform us release of this information may implicate the proprietary interests of Cardon Healthcare Network, Inc. ("Cardon"), Credit Watch, Deco Recovery Management, Financial Corp of America, Medical Reimbursements of America, and Meridian Revenue Solutions. Accordingly, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should

¹We note the Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

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 Cardon. We have considered the submitted arguments and reviewed the submitted information.

Cardon asserts that the information it submitted for our review is excepted from disclosure under sections 552.101, 552.104, and 552.110 of the Government Code. We note, however, the district did not submit any of this information to our office in response to the instant request for information. This ruling does not address information beyond what the district has submitted to us for review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information the district submitted as responsive to the request for information. *See id.*

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 information relating to that party should be withheld from public disclosure. *Id.* § 552.305(d)(2)(B). As of the date of this letter, none of the third parties have submitted comments to this office explaining why the information submitted by the district should not be released.² Therefore, we have no basis to conclude the third parties have a protected proprietary interest in this 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 district may not withhold any portion of the information it submitted for our review based upon the proprietary interests of the third parties. As no exceptions to disclosure are raised for the submitted information, it must be released.

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

²Cardon states that it does not object to the disclosure of its pricing information.

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/agn

Ref: ID# 434644

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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