



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2012

Ms. Neera Chatterjee
Attorney and Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2012-06273

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# 452352 (OGC# 142157).

The University of Texas Health Science Center at San Antonio (the "university") received a request for four categories of information pertaining to contracts and transactions involving recovered human tissues for the purposes of transplantation. You state the university has released some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Bone Bank Allografts; Cytonet, L.L.C.; Bacterin International, Inc.; TissueNet; San Antonio Eye Bank; CryoLife, Inc. ("CryoLife"); and Allosource. Accordingly, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why their 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 CryoLife. We have considered the submitted arguments and reviewed the submitted information.

We note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this decision, we have only received correspondence from CryoLife. Thus, we find the remaining interested third parties have not demonstrated that they have a protected

proprietary interest in any of their submitted information. *See id.* § 552.110(a)-(b); 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 university may not withhold any of the remaining third parties' information on the basis of any proprietary interests these third parties may have in their information.

CryoLife 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 university did not submit most of this information to our office. This ruling does not address information beyond what the university 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 responsive information the university has submitted to this office. *See id.*

CryoLife argues its information at issue is excepted from disclosure under section 552.104 of the Government Code. We note, however, that section 552.104 only protects the interests of a governmental body and does not protect the interests of a third party; therefore, we will not consider CryoLife's claim under section 552.104. *See Open Records Decision No. 592 at 9 (1991)*. As no further exceptions to disclosure 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.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, toll free at (888) 672-6787.

Sincerely,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/akg

Ref: ID# 452352

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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