



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2013

Mr. Carey E. Smith
General Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2013-12383

Dear Mr. Smith:

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# 493857.

The Texas Health and Human Services Commission (the "commission") received a request for three categories of information related to a specified contract: (1) the contract value, (2) the contract documents, and (3) a list of vendors who submitted proposals, the proposal amounts, and bid tabulations. 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 NorthgateArinso ("Northgate"). Accordingly, you state, and provide documentation showing, you notified Northgate of the request for information and of its right to submit arguments to this office as to why the 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 reviewed the submitted information.

Initially, we note you have not submitted information responsive to category three of the request for information. To the extent any information responsive to this portion of the request existed on the date the commission received the request, we assume the commission has released it. If the commission has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Northgate explaining why the submitted information should not be released. Therefore, we have no basis to conclude Northgate has a protected proprietary interest in the submitted 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 commission may not withhold the submitted information on the basis of any proprietary interest Northgate may have in the information. As no exceptions to disclosure have been raised, the submitted information 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 493857

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Harold Babbit
NorthgateArinso
12014 Swearingen Drive
Round Rock, Texas 78758
(w/o enclosures)