



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2014

Ms. Ana Vieira
Attorney and Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2014-15186

Dear Ms. Vieira:

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# 535186 (OGC# 156424).

The University of Texas System (the "system") received a request for nine categories of information pertaining to Hewitt Associates LLC ("Hewitt"); Hewitt Associates Public Sector Consulting LLC ("HAPSC"); or Aon Hewitt LLC ("Aon"). You state the system does not have information responsive to portions of the request.¹ You inform us you will release some information.² You state the system will redact information pursuant to section 552.136 of the Government Code.³ Although you take no position as to whether the remaining requested information is excepted under the Act, you state release of this information may implicate the proprietary interests of Academic Health Plans ("AHP"), Aetna Student Health

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²You inform us you will release information submitted by Blue Cross Blue Shield of Texas ("Blue Cross"). You inform us Blue Cross does not object to release of any of its information.

³Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See Gov't Code* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

("Aetna"), Hewitt, Nationwide Insurance ("Nationwide"), and United Health Care ("United"). Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue 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 the requestor seeks only information pertaining to Hewitt, HAPSC, or Aon. You have submitted information that does not pertain to Hewitt, HAPSC, or Aon. Thus, the portions of the submitted information that do not consist of the information requested are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the system is not required to release that information in response to the request.

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 AHP, Aetna, Hewitt, Nationwide, or United explaining why the submitted responsive information should not be released. Therefore, we have no basis to conclude AHP, Aetna, Hewitt, Nationwide, or United have protected proprietary interests in the submitted responsive 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 system may not withhold the submitted responsive information on the basis of any proprietary interest AHP, Aetna, Hewitt, Nationwide, or United may have in the information.

We note some of the submitted responsive information may be 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. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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. As no exceptions to disclosure have been raised, the system must release the submitted responsive information; however, any information protected by copyright may only be released in accordance with copyright law.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 535186

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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President
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(w/o enclosures)

Terry Lyons
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