



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 5, 2015

Ms. Cynthia Tynan  
Attorney & Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701

OR2015-20784

Dear Ms. Tynan:

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# 581804 (OGC# 163222).

The University of Texas M.D. Anderson Cancer Center (the "university") received a request for plans submitted by Epic Systems Corporation ("Epic"), its agent, or its subcontractor regarding implementation of a specified contract pertaining to the university's electronic health record system. You claim the submitted information is excepted from disclosure under sections 552.104 and 552.139 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of Epic and Computer Financial Consultants, Inc. ("CFC"). Accordingly, you state, and provide documentation showing, you notified CFC and Epic of the request for information and of their right 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 received comments from Epic. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104(a) of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The "test under section 552.104 is whether knowing another bidder's [or competitor's information] would be an advantage, not whether it would be a decisive advantage." *Boeing Co. v. Paxton*, No. 12-1007, 2015 WL 3854264, at \*9 (Tex. June 19, 2015).

The university states it has specific marketplace interests in the information at issue because the university competes “within the healthcare marketplace for patients, and also with other educational, health, and charitable organizations for donations and endowments to fund general operations, education, and research.” In addition, the university states the implementation plans provided by Epic reveal the detailed methods and strategies the university will utilize in implementing its electronic health records system, which the university asserts will alter business processes, allow new manners of communication and access to patients, change and streamline internal communication, and provide more effective, efficient, and reliable integrative healthcare. The university also states its ability to compete with other research institutions, universities, and medical facilities offering similar services as part of the provision of healthcare services would be at a significant disadvantage if the information at issue is released.

After review of the information at issue and consideration of the arguments, we find the university has established the release of the information at issue would give advantage to a competitor or bidder. Thus, we conclude the university may withhold the submitted information under section 552.104(a) of the Government Code.<sup>1</sup>

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

---

<sup>1</sup>As we reach this conclusion, we do not address the remaining arguments.

Ref: ID# 581804

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Michael B. Gerdes  
Epic Systems Corp.  
1979 Milky Way  
Verona, Wisconsin 53593  
(w/o enclosures)

Mr. Mike Parrish  
President  
Computer Financial Consultants, Inc.  
56 Top Gallant Road  
Stamford, Connecticut 06902  
(w/o enclosures)