



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 15, 2015

Ms. Maureen Franz
Deputy Chief Counsel
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711

OR2015-26380

Dear Ms. Franz:

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# 590689.

The Texas Health and Human Services Commission (the "commission") received a request for the winning vendor's proposal, any evaluation forms, and the final executed contract for RFP #529-13-004. You state you have released most of the requested information to the requestor. Although you take no position with respect to the public availability of the remaining requested information, you state release of this information may implicate the proprietary interests of Mercer Health & Benefits, L.L.C. ("Mercer"). Accordingly, you state and provide documentation showing, you have notified Mercer of the request for information and of its right to submit arguments to this office as to why the requested information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the circumstances). We have reviewed the submitted information.

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 letter, we have not received arguments from Mercer. Thus, Mercer has not demonstrated it has a protected proprietary interest in any of the 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 commission may not withhold the submitted information on the basis of any proprietary interests Mercer may have in the information. As no exceptions against 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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 590689

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Lurline Craig-Burke
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(w/o enclosures)