



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 22, 2016

Mr. Barry L. Macha  
General Counsel  
Midwestern State University  
3410 Taft Boulevard  
Wichita Falls, Texas 76308

OR2016-26020

Dear Mr. Macha:

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# 635501.

Midwestern State University (the "university") received a request for the bid tabulation for a specified request for proposals. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of multiple third parties. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> *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 Gill. We have reviewed the submitted information and the submitted arguments.

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<sup>1</sup>The university notified CME Printing, Inc.; Creasey Printing Services; Four Solutions; Gill Digital ("Gill"); Graphic Press; Integ; Liberty Press; Nevada Color Litho; Omni Media Partners; Richmond Printing, LLC; Ricoh; Royle Printing; Taylor Communications; The Oklahoman Direct; The Slate Group; Trend Offset Printing, Inc.; Cenveo Amarillo; EP Graphics; Neiman Printing, Inc.; and United Graphic, LLC.

Initially, we note 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 the remaining third parties explaining why the information should not be released. Therefore, we have no basis to conclude any of the remaining third parties have 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 university may not withhold any of the information at issue on the basis of any proprietary interest the remaining third parties may have in the information.

Gill asserts the information at issue is confidential and should be excepted from disclosure. Upon review of Gill's arguments, we find Gill has not raised any exception to disclosure or directed our attention to any law that would make the information at issue confidential or otherwise prohibit its release to the requestor. Accordingly, as no further arguments against disclosure have been made, 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.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,



Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/akg

Ref: ID# 635501

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

20 Third Parties  
(w/o enclosures)