



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 14, 2017

Ms. Jennifer Burnett
Attorney & Public Information Coordinator
Office of General Counsel
The University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2017-03296

Dear Ms. Burnett:

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# 645712 (OGC No. 172930).

The University of Texas M.D. Anderson Cancer Center (the "university") received a request for information pertaining to the university's advertising and marketing agency request for proposals. You state the university released some information. 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 Marion Montgomery, Inc. ("MMI"); The Richards Group ("TRG"); and Hungry Heart Media, Inc. d/b/a Wondros ("Wondros"). 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, you state some of the responsive information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-24340 (2016). In that ruling, we determined the university must release the responsive information at issue. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the responsive information is identical to the information previously requested and ruled upon by this office, we conclude the university must rely on Open Records Letter No. 2016-24340 as a previous determination and release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the responsive information was not previously ruled on, we will address any submitted arguments.

Next, we note 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 any of the third parties. Thus, the third parties have not demonstrated the companies have protected proprietary interests 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 university not withhold the submitted information on the basis of any proprietary interests any of the third parties may have in the information. As no exceptions to disclosure have been raised, to the extent the responsive information is not identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2016-24340, the university must release the submitted information.

In summary, to the extent the responsive information is identical to the information previously requested and ruled upon by this office, we conclude the university must rely on Open Records Letter No. 2016-24340 as a previous determination and release the identical information in accordance with that ruling. The university must release the remaining 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, 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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive style with a large loop at the end of the last name.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/som

Ref: ID# 645712

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)