



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 10, 2017

Ms. Cynthia Tynan
Senior Attorney and Public Information Coordinator
Office of General Counsel
University of Texas System
201 West 7th Street, Suite 600
Austin, Texas 78701-2901

OR2017-05117

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# 648972 (OGC# 173085).

The University of Texas Health Science Center at San Antonio (the "university") received a request for all proposals and subsequent clarifications submitted and awarded in response to a request for proposals for comprehensive branding and advertising services. 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 Open Channels Group PR ("OCGPR"). Accordingly, you state, and provide documentation showing, you notified OCGPR of the request for information and of its 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 have reviewed the submitted information.

Initially, you state some of the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2016-27085 (2016). In that ruling, we determined the university may withhold the information we indicated under section 552.104(a) of the Government Code and must release the remaining information in accordance with copyright law. You state the law, facts, or circumstances on which the prior ruling was based have not changed. Thus, the university may continue to rely

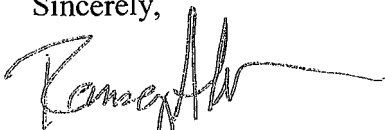
on Open Records Letter No. 2016-27085 as a previous determination and withhold or release the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 OCGPR explaining why the submitted information should not be released. Therefore, we have no basis to conclude OCGPR has protected proprietary interests 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 the submitted information on the basis of any proprietary interest OCGPR may have in the information. As you raise no exceptions to disclosure, 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/bw

Ref: ID# 648972

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)