



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 17, 2019

Mr. Jack E. Skaggs
Counsel for Midland County Hospital District
Jackson Walker, L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701

OR2019-01554

Dear Mr. Skaggs:

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# 746631.

The Midland County Hospital District d/b/a Midland Memorial Hospital (the "district"), which you represent, received a request for a contract and bid proposals pertaining to the provision of a specified software system. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Phillips Healthcare Informatics, Inc. ("Phillips").¹ Accordingly, you state, and provide documentation showing, you notified Phillips of the request for information and of its right to submit arguments to this office as to why the submitted information 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, we note you have not submitted information responsive to the portion of the request seeking bid proposals. To the extent any information responsive to these portions of the

¹Although you raise sections 552.104 and 552.110 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

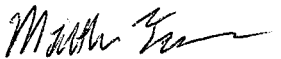
request existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 Phillips explaining why the submitted information should not be released. Therefore, we have no basis to conclude Phillips has 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 district may not withhold the submitted information on the basis of any proprietary interest Phillips may have in the information. As no exceptions to disclosure have been raised, the district 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, 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/eb

Ref: ID# 746631

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)