



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 4, 2019

Mr. Jonathan Miles
Open Records Attorney
Texas Health and Human Services Commission
P.O. Box 13247
Austin, Texas 78711-3247

OR2019-05946

Dear Mr. Miles:

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# 752956 (HHSC Ref. No. 17117).

The Texas Health and Human Services Commission (the "commission") received a request for all proposals, scoring documents, and contracts relating to a specified request for proposals. The commission states it will release some information to the requestor. Although the commission takes no position as to whether the submitted information is excepted under the Act, the commission states release of the submitted information may implicate the proprietary interests of Aon Hewitt ("Aon") and Milliman. Accordingly, the commission states, and provides documentation showing, it notified each third party 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 received comments from Milliman. We have reviewed the submitted information and the submitted arguments.¹

¹We note the submitted information includes the requestor's proposal. As we assume the requestor does not seek access to the requestor's own proposal, we do not address the public availability of that information.

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 only received comments from Milliman. However, Milliman did not raise any exceptions to disclosure under the Act or assert it has a protected proprietary interest in the responsive information. Therefore, we have no basis to conclude either third party has a protected proprietary interest in the submitted information, and the commission may not withhold any portion of it on that basis. *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 commission 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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/gw

Ref: ID# 752956

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 2 Third Parties
(w/o enclosures)