



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 2, 2020

Ms. Jennifer Burnett  
Assistant General Counsel  
The University of Texas System  
210 West 7th Street  
Austin, Texas 78701-2903

OR2020-27436

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# 851561 (OGC# 198410).

The University of Texas Southwestern Medical Center (the "university") received a request for specified contracts. 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 Vocera Communications, Inc. ("Vocera"). Accordingly, you state, and provide documentation showing, you notified Vocera 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 received arguments from Vocera. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have only submitted information pertaining to one of the specified contracts. To the extent any other responsive information existed on the date the university received the request, we assume the university has released it. If the university 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).

Next, we note section 2261.253 of the Government Code provides, in relevant part, as follows:

(a) For each contract for the purchase of goods or services from a private vendor, each state agency shall post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed[.]

Gov't Code § 2261.253(a)(1). The submitted contracts are between the university, a state agency, and Vocera, a private vendor, for the purchase of goods or services. Further, the contracts have neither expired nor been completed. Accordingly, we find the submitted contracts are contracts described by section 2261.253.

Vocera raises sections 552.110 and 552.1101 of the Government Code for portions of the submitted contract. Section 552.0222 of the Government Code provides, in relevant part:

(b) The exceptions to disclosure provided by Sections 552.110 and 552.1101 do not apply to the following types of contracting information:

(1) a contract described by Section 2261.253(a), excluding any information that was properly redacted under Subsection (e) of that section[.]

*Id.* § 552.0222(b)(1). As noted above, the submitted contract is a contract described by section 2261.253(a). Additionally, we have no indication any portion of the submitted contract was properly redacted under section 2261.253(e). Although Vocera raises sections 552.110 and 552.1101, section 552.0222 expressly states these exceptions do not apply to a contract described by section 2261.253(a). Accordingly, we do not address Vocera's arguments against disclosure under these exceptions.

We note some of the materials at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. The university must release the submitted information; however, any information that is subject to copyright may be released only in accordance with copyright law.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Sean McCormick  
Assistant Attorney General  
Open Records Division

SMC/

Ref: ID# 851561

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)