



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2010

Ms. Anne M. Constantine
Legal Counsel
Dallas Fort Worth International Airport
P.O. Box 619428
DFW Airport, Texas 75261-9428

OR2010-17886

Dear Ms. Constantine:

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# 401436.

The Dallas/Fort Worth International Airport Board (the "board") received a request for bids submitted to the board by A&F Elevator Company, Inc., EMR Elevator, Inc. ("EMR"), and KONE, Corp. in response to solicitation number 7005286.¹ You state the board has released some of the requested information to the requestor. Although you take no position on release of the submitted information, you explain that release of the submitted information may implicate the proprietary interests of EMR. Accordingly, you notified EMR of this 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); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

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 decision, we have not received any correspondence from EMR. Thus, EMR has not

¹You inform us the requestor withdrew a portion of his request for the confidential portion of KONE's bid.

demonstrated that it has a protected proprietary interest 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 board may not withhold any of the submitted information based upon the proprietary interests of EMR. As the board raises no exceptions to disclosure, the submitted information must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 401436

Enc: Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)