



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2011

Ms. Connie Crawford
Assistant County Attorney
El Paso County Hospital District Legal Department
4815 Alameda Avenue, 8th Floor, Suite B
El Paso, Texas 79905

OR2011-18596

Dear Ms. Crawford:

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# 440705 (File No. HO-11-302).

The El Paso County Hospital District (the "district") received a request for the following information concerning Project ID 1001470525: the "base low bid information" for the three low bidders, their bid amounts, how many bids were received, whether and to whom the contract has been awarded, and the telephone numbers for the contractors who were low bidders or were awarded the contract. Although you take no position on the public availability of the submitted information, you state the information may implicate the interests of Total Mechanical, Inc. ("Total") and T-DYNE Contractors, LLC ("T-DYNE"). Accordingly, you submit documentation showing you notified Total and T-DYNE of the request for information and of their rights to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the district is not required to release non-responsive information in response to this request.

Next, we note you have not submitted the requested telephone numbers. To the extent the district maintained the telephone numbers on the date the district received the request, we assume you have released this information. If you have not released this information to the requestor, you must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Finally, 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) of the Government Code to submit its reasons, if any, as to why requested information relating to it should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from Total or T-DYNE. We, thus, have no basis for concluding that any portion of the information at issue constitutes proprietary information of Total or T-DYNE. *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 any of the information at issue based on the proprietary interests of Total or T-DYNE. As no exceptions to disclosure have been claimed for this information, the district must release the submitted responsive information 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,



Karen Hattaway
Assistant Attorney General
Open Records Division

KEH/sdk

Ref: ID# 440705

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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President and Operations Manager
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Sunland Park, New Mexico 88063
(w/o enclosures)

T-DYNE Contractors, LLC
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El Paso, Texas 79936
(w/o enclosures)