



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 30, 2012

Ms. Jacqueline E. Hojem  
Public Information Coordinator  
Metropolitan Transit Authority of Harris County, Texas  
P.O. Box 61429  
Houston, Texas 77208-1429

OR2012-06207

Dear Ms. Hojem:

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# 452164 (MTA No. 2012-0141).

The Metropolitan Transit Authority of Harris County, Texas (the "authority") received a request for a specified contract.<sup>1</sup> Although you take no position on the public availability of the submitted information, you state the submitted information may implicate the proprietary interests of a third party. Accordingly, you indicate you notified KelseyCare Advantage ("KelseyCare") of the request and of the company's right to submit comments to this office as to why the submitted information should not be released to the requestor. *See Gov't Code* § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We have reviewed the submitted 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*

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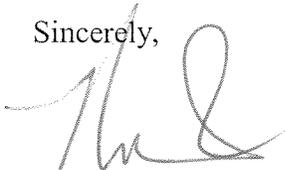
<sup>1</sup>You indicate the authority sought and received clarification of the information requested. *See Gov't Code* § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from KelseyCare on why the company's submitted information should not be released. Therefore, we have no basis to conclude KelseyCare has protected proprietary interests 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 (1990). Accordingly, the authority may not withhold any portion of the submitted information on the basis of any proprietary interest KelseyCare may have in it. As no exceptions to disclosure have been raised, the authority 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.oag.state.tx.us/open/index\\_orl.php](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,



Nheka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ref: ID# 452164

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)