



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 18, 2012

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

OR2012-09347

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# 456444 (HO-12-102).

The El Paso County Hospital District d/b/a University Medical Center of El Paso (the "district") received a request for bid responses and award information pertaining to a specified bid for elevator maintenance.¹ Although you take no position as to the public availability of the submitted information, you state that release of this information may implicate the proprietary interests of ThyssenKrupp Elevator Corporation ("TKE"). Accordingly, you have notified TKE 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 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 Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from

¹We note the district 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).

TKE on why the company's submitted information should not be released. Therefore, we have no basis to conclude TKE 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 district ~~may not withhold any portion of the submitted information on the basis of any proprietary interest TKE may have in it.~~ As no exceptions to disclosure have been raised, the district 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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 456444

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

c: Thyssen Krupp Elevator
7198 Merchant Avenue, Suite C-2
El Paso, Texas 79915
(w/o enclosures)