



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 17, 2013

Mr. Christopher Sterner
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2013-01049

Dear Mr. Sterner:

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# 478124 (OOG# 271-12).

The Office of the Governor (the "governor's office") received a request for amended loan request letters to the Economic Development Bank for the last three years.¹ Although you take no position as to the public availability of the requested information, you state its release may implicate the proprietary interests of AA Truck Sleeper, LLC; Studios 121, and Delta Steel Technologies, formerly known as Designers and Manufacturers of Metal Processing Machinery. Accordingly, you notified these companies of the request and of each company's right to submit arguments to this office as to why the information at issue should not be released. 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 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) 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 the notified companies. Therefore, we have no basis to conclude any of the notified companies has a protected proprietary interest in the submitted

¹You inform us the governor's office sought and received a clarification of the information requested. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

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. Thus, the governor's office may not withhold any of the submitted information on the basis of these companies' proprietary interests. As no exceptions to disclosure have been raised, the submitted information must be released.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 478124

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Designers and Manufacturers of
Metal Processing Machinery
2204 Century Center Boulevard
Irving, Texas 75062
(w/o enclosures)

Studios 121
6125 Airport Freeway
Fort Worth, Texas 76110
(w/o enclosures)

AA Truck Sleeper, LLC
3029 South Main Street
Fort Worth, Texas 76110
(w/o enclosures)