



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 26, 2013

Ms. Lisa Ayers  
Paralegal  
Parkland Health & Hospital System  
5201 Harry Hines Boulevard  
Dallas, Texas 75235

OR2013-06889

Dear Ms. Ayers:

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# 485424.

The Dallas County Hospital District d/b/a Parkland Health and Hospital System (the "district") received a request for the responses and bid materials related to RFP No. MS-2600. You inform us the district has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you inform us the release of this information may implicate the proprietary interests of Craneware, Inc. ("Craneware"). Accordingly, you notified Craneware of the request for information and of the company's 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 Act in certain circumstances). We have reviewed the submitted information.

Initially, we must address the district's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). You state the district received the

request for information on February 1, 2013. Thus, the district's ten-business-day deadline to request a ruling from this office was February 12, 2013. However, the envelope containing your request for a ruling is postmarked February 20, 2013. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Therefore, the district failed to comply with the procedural requirements mandated by section 552.301(b) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the information is public and must be released. Information presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Normally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third-party interests are at stake. *See* Open Records Decision No. 150 at 2 (1977). Because third-party interests are at stake, we will consider whether the submitted information must be withheld to protect the interests of Craneware.

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, Craneware has not submitted comments to this office explaining why its information should not be released. Therefore, we have no basis to conclude Craneware has a protected proprietary interest 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. Accordingly, the district may not withhold any portion of the information it submitted for our review based upon the proprietary interests of Craneware. As no exceptions to disclosure are raised for the submitted information, the district must release it.

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,



Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/bhf

Ref: ID# 485424

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Keith Neilson  
CEO  
Craneware, Inc.  
Suite 850  
3340 Peachtree Road North East  
Atlanta, Georgia 30326  
(w/o enclosures)