



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 23, 2009

Ms. Marivi Gambini  
City Attorney's Office  
City of Irving  
825 West Irving Boulevard  
Irving, Texas 75060

OR2009-10264

Dear Ms. Gambini:

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# 349983.

The City of Irving (the "city") received a request for the cost sections and software specifications from the vendor responses to RFP 194-08F relating to an integrated online library system.<sup>1</sup> You state the city is releasing most of the responsive information. You do not take a position as to whether the submitted information is excepted under the Act, but state that release of the information may implicate the proprietary rights of a third party. Accordingly, you inform us, and provide documentation showing, that you have notified Polaris Library Systems of its right to submit arguments to this office as to why the submitted proposal 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.

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<sup>1</sup>The city sought and received clarification from the requestor. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

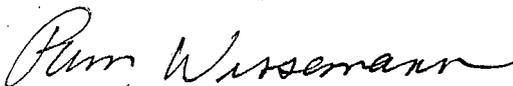
Initially, we note that a portion of the submitted documents, which we have marked, is not responsive to the present request as it does not fall within the categories of information sought by the requestor. The city does not need to release non-responsive information in response to this request, and this ruling will not address that information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W. 2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

Next, we note that 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 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 correspondence from Polaris Library Systems explaining why its information should not be released. Thus, we have no basis for concluding that any portion of the submitted information pertaining to this third party constitutes proprietary information, and the city may not withhold any portion of the information on that basis. *See 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). As you raise no other exception against disclosure, the submitted responsive 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](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 at (512) 475-2497.

Sincerely,



Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/dls

Ref: ID# 349983

Enc.: Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Alastair Cameron  
Manager, Proposals & Contracts  
Polaris Library Systems  
103 Commerce Boulevard  
Liverpool, New York 13088  
(w/o enclosures)