



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 14, 2009

Mr. Tom Tracy
Assistant General Counsel
University of Houston System
311 East Cullen Building
Houston, Texas 77204-2028

OR2009-14511

Dear Mr. Tracy:

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# 358893.

The University of Houston System (the "system") received a request for information pertaining to a specified invitation to bid. Although the system takes no position on whether the submitted information is excepted from disclosure, you explain this information may contain a third party's proprietary information subject to exception under the Act. Accordingly, you state you have notified TSI, Inc. ("TSI") of this request for information and of its right to submit arguments to this office explaining why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have reviewed the submitted information.

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, this office has not received any correspondence from TSI. Thus, TSI has not demonstrated that any of its submitted information is proprietary for purposes of the Act, and the system may not withhold it on that basis. *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.

We note that some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 (1990). As no arguments against disclosure have been made, the system must release the submitted information to the requestor, but must do so in accordance with copyright law.

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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 358893

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

c: Mr. Jeff Baker
TSL, Incorporated
500 Cardigan Road
Shoreview, Minnesota 55126
(w/o enclosures)