



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 28, 2011

Mr. Joe Gorfida, Jr.
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
For City of Sachse
1800 Lincoln Plaza
500 North Akard Street
Dallas, Texas 75201

OR2011-04170

Dear Mr. Gorfida:

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# 412639.

The City of Sachse (the "city"), which you represent, received a request for responses to the city's Request for Proposals No. 2010-001, Enterprise Resource Planning System. You state the city has released some information to the requestor. Although you take no position with respect to the public availability of the submitted information, you state release of this information may implicate the proprietary interests of STW, Inc. ("STW") and Tyler Technologies ("Tyler"). You inform us, and provide documentation showing, you have notified the companies of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have received comments from STW. We have considered the submitted arguments and reviewed the submitted information.

Initially, 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 requested information relating to that party should be withheld from disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, Tyler has not submitted any comments to this office explaining how release of the submitted information would affect its proprietary interests. Accordingly, none of the submitted information may be withheld on the basis of Tyler's proprietary interests. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (stating business enterprise claiming exception for commercial or financial information under section 552.110(b) must show by specific factual evidence release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case information is trade secret).

Next, we note STW has submitted arguments regarding information beyond that which the city submitted to this office for our review. This ruling does not address such information, and is limited to the information submitted as responsive to the request by the city. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). As STW has not submitted arguments against disclosure of any of the submitted information, the city may not withhold any information on the basis of STW's arguments. Therefore, as you raise no argument against disclosure, the city 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/dls

Ref: ID# 412639

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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