



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 20, 2013

Mr. John A. Haislet
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2013-04591

Dear Mr. Haislet:

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# 482144.

The City of College Station (the "city") received a request for all bid submissions for RFP No. 12-092, including the winning bid. You state you have released some of the information to the requestor. Although you take no position on the remaining requested information, you state it may contain proprietary information subject to exception under the Act. Accordingly, you state and provide documentation showing the city notified Coeur Business Group, Government Finance Officers Association, Information Services Group, Inc., and Schafer Consulting of the request for information and of their right to submit arguments to this office as to why the requested 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 the Act in 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 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, this office has not received comments from any of the third parties explaining why the submitted information should not be released to

the requestor. Therefore, we have no basis to conclude any of the third parties have a protected 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 city may not withhold any of the submitted information based upon the interests of the third parties.

We note, however, 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. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). 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. Therefore, as no exceptions to disclosure have been raised, the city must release the submitted information, but any information protected by copyright may only be released 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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/dls

Ref: ID# 482144

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Nancy Schafer
Schafer Consulting
120 Vantis, Suite 300
Aliso Viejo, California 92656
(w/o enclosures)

Mr. Zig Berzins
Coeur Business Group
18 Hawk Ridge Boulevard, Suite 200
Lake Saint Louis, Missouri 63367
(w/o enclosures)

Mr. Mitt Salvaggio
Managing Partner
Information Services Group, Inc.
Building 2, Suite 105
4807 Spicewood Springs Road
Austin, Texas 78759
(w/o enclosures)

Mr. Dave Melbye
Government Finance Officers Association
203 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
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