



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 6, 2009

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

OR2009-14054

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# 357451.

The University of Houston (the "university") received a request for copy of the bid tabulations for bid number 730 regarding fitness equipment. Although you take no position regarding the public availability of the requested information, you state it may implicate the proprietary interests of the third parties whose information has been requested. You state, and provide documentation showing, that you have notified the interested third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released to the requestor.<sup>1</sup> 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.

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) of the Government Code 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 any arguments from any of the interested third parties explaining why their information should not be released. Therefore, these companies have not provided us with any basis to conclude they have protected proprietary interests in any of the submitted information. See Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of

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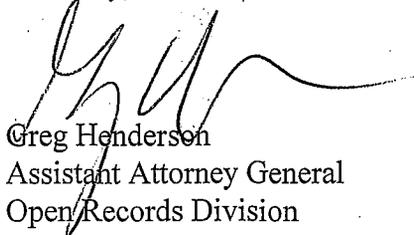
<sup>1</sup>The interested third parties are as follows: American Fitness & Sport Supply, Inc.; Fitness Lifestyles, Inc.; Life Fitness; Power Systems, Inc.; Pro-Edge Fitness; Promaxima MFG; Quantum Fitness Corp.; Team Marathon Fitness; USA Fitness; Wisthoff's Fitness Warehouse.

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, we conclude the university may not withhold any portion of the submitted information on the basis of any proprietary interest the interested third parties may have in the information. As you raise no exceptions against disclosure, the submitted 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, toll free, at (888) 672-6787.

Sincerely,



Greg Henderson  
Assistant Attorney General  
Open/Records Division

GH/rl

Ref: ID# 357451

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Tommy Hodge  
Power Systems, Inc.  
P.O. Box 51030  
Knoxville, Tennessee 37950  
(w/o enclosures)

Ms. Christa Davis  
Team Marathon Training  
P.O. Box 17705  
Sugar Land, Texas 77496  
(w/o enclosures)

Mr. Richard Chuk  
Wisthoff's Fitness Warehouse  
948 Greenbay Road  
Winnetta, Illinois 60093  
(w/o enclosures)

Mr. John Rutisliano  
Promaxima MFG  
5310 Ashbrook  
Houston, Texas 77081  
(w/o enclosures)

W. Brooke Ayton  
Quantum Fitness Corp.  
10245 West Airport  
Stafford, Texas 77477  
(w/o enclosures)

Mr. Aaron Nadal  
Pro-Edge Fitness  
11316 Rotherfield Place  
Bakersfield, California 93311  
(w/o enclosures)

Mr. Patrick Ramsey  
American Fitness & Sport Supply, Inc.  
3014 Memorial Avenue  
Lynchburg, Virginia 24501  
(w/o enclosures)

Mr. Gus Rodriguez  
Life Fitness  
5100 River Road  
Schiller Park, Illinois 60176  
(w/o enclosures)

Mr. Humberto Richard, Jr.  
USA Fitness  
3456 Hill Street  
Huntington Park, California 90255  
(w/o enclosures)

Mr. Ric Flagg  
Fitness Lifestyles, Inc.  
614 Cookman Avenue  
Asbury Park, New Jersey 07712  
(w/o enclosures)