



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 8, 2010

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2010-10098

Dear Ms. De La Garza:

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# 385740.

The City of Houston (the "city") received a request for the following information pertaining to the Houston Police Department's records management system: (1) a copy of Intergraph Corp. and Tiburon, Inc.'s proposal responses; (2) evaluation reports; and (3) a copy of the Tiburon contract. You state some of the responsive information will be released. Although you take no position on the public availability of the submitted information, you state that it may contain proprietary information. You state that you have notified the third parties of the request and of their opportunity to submit comments to this office as to why the submitted information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain the applicability of exception to disclose under 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) 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, the third parties have not submitted comments to this office explaining why any portion of their submitted information

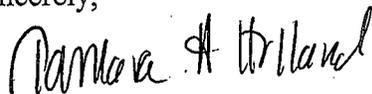
should not be released to the requestor. Thus, we have no basis to conclude that the release of any portion of the submitted information relating to the third parties would implicate their proprietary interests. *See id.* § 552.110; Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 661 at 5-6 (1999) (stating that business enterprise that claims exception for commercial or financial information under section 552.110(b) must show by specific factual evidence that release of requested information would cause that party substantial competitive harm). Accordingly, we conclude that the city may not withhold any portion of the third parties' information on the basis of any proprietary interests that they may have in the information.

We note that some of the submitted information is 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). Therefore, the submitted information must be released, but any information protected by copyright must 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\\_ori.php](http://www.oag.state.tx.us/open/index_ori.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,



Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/jb

Ref: ID# 385740

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Ms. Francis Meyer  
Vice President, North America Public Sector  
Unisys Corporation  
11720 Plaza America Drive, Tower III  
Reston, Virginia 20190  
(w/o enclosures)

Tiburon, Inc.  
Attn: Legal Counsel  
6200 Stoneridge Mall Road, Suite 400  
Pleasanton, California 94588  
(w/o enclosures)