



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2010

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2010-18432

Dear Mr. Grace:

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# 402280.

The City of Austin (the "city") received a request for the contract between the city and the manufacturer of the city's police department's computer aided dispatch system, including the cost of the system; the service/maintenance agreement for the system; and the number of years the system has been operational with the city's police department.¹ You state the request may implicate the proprietary interest of a third party, TriTech Software Systems (TriTech).² Accordingly, pursuant to section 552.305 of the Government Code, you notified TriTech of the request and of its right to submit arguments to this office as to why its information should not be released. *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 applicability of

¹You provide documentation indicating the requestor has withdrawn a portion of her request.

²Although you initially raised sections 552.101 and 552.108 of the Government Code, you did not submit to this office written comments stating the reasons why these sections would allow the information to be withheld. Accordingly, we understand the city no longer asserts the applicability of these exceptions. *See* Gov't Code §§ 552.301(b), (e), .302.

exception to disclosure under Act in certain circumstances). We have reviewed the submitted information.

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, TriTech has not submitted comments to this office explaining why any portion of the submitted information should not be released to the requestor. Because we have not received comments from TriTech, we have no basis to conclude it has a protected proprietary interest in the submitted information. *See id.* § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, it actually faces competition and substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3; *see also* Gov't Code § 552.022(a)(3) (contract involving receipt or expenditure of public funds expressly made public). Therefore, the city may not withhold any portion of the submitted information on the basis of any proprietary interest TriTech may have in the information. As no exceptions to disclosure of the submitted information have been raised, 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_or1.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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 402280

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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