



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 14, 2011

Mr. Hyattye Simmons
General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2011-10035

Dear Mr. Simmons:

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# 425250 (DART ORR # 8220).

Dallas Area Rapid Transit ("DART") received a request for all information approved by DART during a specified RFA process and attachments associated with specified approvals. You state DART is releasing some of the responsive information. Although DART makes no arguments about whether the requested information is excepted from disclosure, you state release of this information may implicate the proprietary interests of third parties. Accordingly, you inform us you have notified the third parties of the request and of their right to submit arguments to this office explaining why the submitted information should not be released.¹ *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 considered 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*

¹The third parties are New Flyer, Gillig, Diamler, and Designline.

Gov't Code § 552.305(d)(2)(B). As of the date of this letter, none of the third parties have submitted any comments to this office explaining how release of the submitted information would affect their proprietary interests. Accordingly, none of the information at issue may be withheld on the basis of the proprietary interests of the third parties. *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).

Finally, we note some of the submitted information appears to 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. As no exceptions to its disclosure are raised, DART must release the submitted information 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/em

Ref: ID# 425250

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Sathi Kalaimannan
Diamler
350 Hazelhurst Road
Mississauga, Ontario, Canada L5J 4T8
(w/o enclosures)

Ms. Maribel Gonzalez
Gillig
25800 Clawitter Road
Hayward, California 94545
(w/o enclosures)

Mr. Peter Taddeo
Designline
4201 Congress Street, Suite240
Charlotte, North Carolina 28296
(w/o enclosures)

Mr. Adrian Graca
New Flyer
711 Kernaghan Avenue
Winnipeg, Manitoba, Canada RTC 3T4
(w/o enclosures)