

December 14, 2012

Mr. Warren M.S. Ernst
Chief, General Counsel Division
City of Dallas
1500 Marilla Street, Room 7BN
Dallas, Texas 75201

OR2012-20109

Dear Mr. Ernst:

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# 474853.

The City of Dallas (the "city") received a request for a contract between the city and SunGard Availability Services, LP ("SunGard"). Although the city takes no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of SunGard. Accordingly, you provide documentation showing you have notified SunGard of the request and its right to submit arguments to this office. *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 an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from SunGard. Thus, we have no basis to conclude SunGard has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)-(b); 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 information at issue on the basis of any proprietary interest SunGard may have in the information. As no exceptions to disclosure are raised, the submitted information must be released to the requestor.

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,

Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 474853

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Jennifer Sherman
Senior Contract Specialist
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(w/o enclosures)