



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2012

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2012-20624

Dear Mr. Cumbie:

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# 474432 (City of Fort Worth PIR No. W020586).

The City of Fort Worth (the "city") received a request for records pertaining to a specific request for proposals involving RFID implementation for Fort Worth libraries. You state you have released some information to the requestor. Although the city takes no position regarding whether the submitted information is excepted from disclosure, you state release of this information may implicate the proprietary interests of Tracsystems, Inc. ("Tracsystems"), Identive, Bibliotheca ITG, LLC ("Bibliotheca"), EnvisionWare, Inc. ("EnvisionWare"), and Tech Logic Corporation ("Tech Logic"). Accordingly, you provide documentation showing you have notified Tracsystems, Identive, Bibliotheca, EnvisionWare, and Tech Logic of the request and their 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 first 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 Tracsystems, Identive, Bibliotheca, EnvisionWare, or Tech Logic. Thus, Tracsystems, Identive, Bibliotheca, EnvisionWare, and

Tech Logic have not demonstrated they have protected proprietary interests 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 Tracsystems, Identive, Bibliotheca, EnvisionWare, or Tech Logic may have in the information.

Section 552.136 of the Government Code states, "Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential."¹ Gov't Code § 552.136(b); *see also id.* § 552.136(a) (defining "access device"). This office has determined an insurance policy number is an access device number for the purposes of section 552.136. Accordingly, the city must withhold the insurance policy numbers we have marked under section 552.136.

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.

In summary, the city must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The city must release the remaining information; however, any information protected by copyright may only be released in accordance with copyright law.

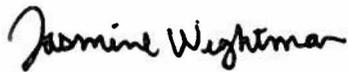
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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_orl.php.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Jasmine D. Wightman
Assistant Attorney General
Open Records Division

JDW/dls

Ref: ID# 474432

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Al Coalla
Director of Sales
Bibliotheca ITG, L.L.C.
5000 Miller Court East
Norcross, Georgia 30071
(w/o enclosures)

Mr. Michael J. Monk
Chief Executive Officer
Envision Software, Inc.
2855 Premiere Parkway, Suite A
Duluth, Georgia 30097
(w/o enclosures)

Mr. Chris Trail
Director of Sales & Operations
Tracsystems, Inc.
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Addison, Texas 75001
(w/o enclosures)

Mr. Mike Heitzman
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Tech Logic Corporation
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White Bear, Minnesota 55110
(w/o enclosures)

Mr. Mark Haugwitz
VP Sales & Business Development
Identive
1559 NW 79th Avenue
Doral, Florida 33126
(w/o enclosures)