



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 3, 2013

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

OR2013-11346

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# 492249.

The City of Dallas (the "city") received a request for PIPS Technology Inc.'s ("PIPS") response to request for vendor submissions number RFCSP BHZ1217. Although you take no position with respect to the public availability of the submitted information, you indicate the proprietary interests of PIPS might be implicated by its release. We understand you notified PIPS of the request and the company's right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third parties 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 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 letter, we have not received comments from PIPS. Thus, PIPS has not demonstrated the company has 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 the submitted information on the basis of any proprietary interests PIPS may have in the information.

We note some of the submitted information may be subject to section 552.130 of the Government Code, which excepts from disclosure “information [that] relates to . . . a motor vehicle title or registration issued by an agency of this state or another state or country[.]”¹ See Gov’t Code § 552.130(a)(2). The submitted information contains motor vehicle record information, which we have marked. However, we are unable to determine whether the marked information constitutes real motor vehicle record information. Thus, to the extent information we have marked constitutes real motor vehicle record information, the city must withhold the information we have marked under section 552.130 of the Government Code.

We note some of the remaining information may 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, to the extent information we have marked constitutes real motor vehicle record information, the city must withhold the information we have marked under section 552.130 of the Government Code. The city must release the remaining information, but 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a horizontal line extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 492249

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Manfred Rietsch
President
PIPS Technology
804 Innovation Drive
Knoxville, Tennessee 37932
(w/o enclosures)