

Gay P. Kent
Director, Product Investigations
General Motors North America
Mail Code 480-210-G11
30001 Van Dyke Road
Warren, MI 48090

AUG - 2 2007

Re: Confidentiality Determination/PE07-006

Dear Ms. Kent:

This responds to your April 20, 2007 letter requesting confidential treatment for information in General Motors North America's (GM) response to a February 8, 2007 information request (IR) issued in the above-referenced investigation. This also serves as our response to GM's supplier, Bend All Automotive Incorporated (Bend All). Bend All has separately requested confidential treatment for materials it supplied to GM for its use in responding to the IR. Copies of the Bend All request was included with GM's submission. We ask that you promptly forward a copy of this response to Bend All.

The information for which GM and Bend All seek confidential treatment is contained on two CD-ROMs.¹ One CD-ROM contains information from GM. The second CD-ROM contains information from Bend All.

I have decided to grant each request.

GM and its suppliers were required to submit this data in response to an agency information request. Thus, because GM and its suppliers were required to submit this information, I reviewed the claims for confidential treatment under the test set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) and its progeny. Under the *National Parks* decision, information concerning a commercial or financial matter may be withheld under Exemption 4 of the Freedom of Information Act

¹ GM's submission also contained at "Attachment 1" a third CD-ROM and a DVD that contains information for which GM is not seeking confidential treatment. The information on those two additional discs was not reviewed for confidential treatment, and all information contained thereon will not be accorded confidential treatment.

(FOIA) if disclosure of the information would be likely to cause substantial competitive harm to the competitive position of the submitter, or is likely to impair the Government's ability to obtain necessary information in the future. *Id.* at 770.

I will address each request for confidential treatment in turn.

GM

The GM CD-ROM is labeled "N 070035, PE07-006, Attachment 2, Reply Date 4/20/2007" and is marked "GM Confidential." A folder within the CD-ROM, "ATT_2_GM_CONF" contains one subfolder: "Q_08." Each of these subfolders contains various nested subfolders and documents. GM asserts that the information in each of these subfolders is entitled to confidential treatment. GM requests confidential treatment for an indefinite period.

GM's letter indicates that the submitted information contains trade secret and commercial information that is not customarily made public. GM contends that the information, if disclosed, would be likely to cause GM substantial competitive harm because disclosure would permit a competitor to obtain GM's vehicle engineering development process without committing similar resources and effort.

Upon review of GM's submission, GM submitted engineering change information, most of which is contained in subfolders "Q_08_3," "Q_08_4," and "Q_08_7." These materials contain engineering and testing specifications, evaluation conclusions and design failure conclusions. GM asserts that the competitive harm resulting from release of this information would be substantial, as the design and manufacture of vehicles and their components are at the core of its business and because global competition in this business is intense. GM also submitted test analysis and report analysis information, contained in subfolders "Q_08_5" and "Q_08_6," respectively. GM contends that vehicle testing and associated engineering analysis involves significant time, effort, expertise and money to plan and execute. GM asserts that these materials provide valuable information that a competitor would otherwise have to spend its time and money to develop and investigate. I agree that disclosure of the foregoing materials would be likely to cause GM substantial competitive harm. Therefore, I have concluded that this material is entitled to confidential treatment under FOIA Exemption 4.

Bend All

The Bend All CD-ROM is labeled "N 070035, PE07-006, Attachment 3, Reply Date 4/20/2007" and is marked "Supplier Confidential." The CD-ROM contains two PDF documents for which it requests confidential treatment: "BENDALL_9.5 Nominal hose ID.pdf," and "BENDALL_0.375 inch crimp coupling joint validation.pdf." Bend All requests confidential treatment for an indefinite period.

Upon review of Bend All's submission, the foregoing two documents contain design and manufacturing information related to Bend All's hose crimp geometry, which Bend All asserts has been developed at significant cost to Bend All. I agree that disclosure of this information would be likely to cause Bend All substantial competitive harm, as application of this crimp is at the core of Bend All's fluid handling assembly business, and because global competition in this business is intense. Therefore, I have concluded that this material is entitled to confidential treatment under FOIA Exemption 4.

Subject to the conditions below, this grant of confidential treatment as to GM and Bend All will remain in effect on an indefinite basis.

This grant of confidential treatment is subject to certain conditions. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 CFR § 512.10). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations (49 CFR § 512.22(b)).

Sincerely,

Original Signed by

Otto G. Matheke, III
Senior Attorney

