



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 27, 2010

Mr. William F. Sava
County Judge
Castro County
100 East Bedford, Room 111
Dimmitt, Texas 79027

OR2010-01275

Dear Mr. Sava:

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# 368512.

Castro County (the "county") received a request for copies of the responses from Hill Country Software and Support ("Hill Country") and NET Data Corporation ("NET Data") to RFP# 20091029. You take no position with respect to the public availability of the requested information, but believe that the request may implicate the proprietary interests of the third parties, Hill Country and NET Data. Accordingly, you notified the companies of this request for information and of their right to submit arguments to this office as to why the information should not be released. *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.

Pursuant to section 552.305(b), we have received comments from Hill Country. Hill Country states it has no objection to the public disclosure of its proposal. Accordingly, as neither the county nor Hill Country raise exceptions to disclosure for the Hill Country proposal, it must be released.

Next, we note that 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 information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, this office has not received comments from NET Data explaining why its proposal should not be released. Therefore, we have no basis to conclude that NET Data has a protected proprietary interest in the

submitted information. *See id.* § 552.110; 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 county may not withhold any portion of the submitted information based upon the proprietary interests of NET Data. As the county raises no exceptions to disclosure, the county must also release NET Data's proposal.

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/eeg

Ref: ID# 368512

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. James Staceczny
Hill Country Software and Support
4 Green Cedar Road
Boerne, Texas 78006-7929
(w/o enclosures)
