



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2012

Mr. Ken Kirkpatrick
Senior Program Manager
Transportation Department
North Central Texas Council of Governments
P.O. Box 5888
Arlington, Texas 76005-5888

OR2012-04101

Dear Mr. Kirkpatrick:

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# 448457.

The North Central Texas Council of Governments (the "council") received a request for the winning proposal submitted in response to a specified request for proposals. You state the council has released some of the requested information. Although you take no position as to whether the submitted information is excepted under the Act, you inform us that release of this information may implicate the proprietary interests of PTV NuStats ("NuStats"). Accordingly, you notified this company of the request for information and of its right to submit arguments to this office as to why the submitted 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 Act in certain circumstances).* We have reviewed the submitted information.

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, NuStats has not submitted comments to this office explaining why the submitted information should not be released. Therefore, we have no basis to conclude that NuStats 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 council may not withhold any portion of the submitted information based upon the proprietary interests of NuStats. As no exceptions to disclosure are raised, the council must release the submitted information.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/dls

Ref: ID# 448457

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)