



November 29, 1999

Ms. Lavergne Schwender
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR99-3401

Dear Ms. Schwender:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129651.

Harris County (the county) received a request for "the proposal and any and all related materials submitted by Kronos Incorporated in response to Job Number 98/0013." You state that the Harris County Purchasing Department notified Kronos of the open records request and that "Kronos claims that portions of the information provided to the Hospital District/County in their proposal on this RFP are protected under the Open Records Act, pursuant to Texas Government Code §552.110, because they claim that the information provided is a trade secret and proprietary, except for product literature." We have not received a copy of your notification to Kronos,¹ nor have we received any communication from Kronos supporting an argument of trade secret or proprietary information. We have considered the exception you claim and reviewed the submitted information.

Section 552.305 of the Government Code, as amended by Act of May 25, 1999, 76th Leg., R.S., ch. 1319, § 24, 1999 Tex. Sess. Law Serv. 4500, 4510 (Vernon) (codified as an amendment to Gov't Code § 552.305), took effect September 1, 1999. It requires a governmental body to make a good faith attempt to notify a person whose proprietary interests may be affected by a request for information. The notice must:

(1) be in writing and sent within a reasonable time not later than the 10th business day after the date the governmental body receives the request for the information; and

(2) include:

¹The letter dated September 15, 1999, from the Harris County Purchasing Agent to Kronos Incorporated contains the following sentence: "Also, for your information, because the Attorney General did not address the submission made by Kronos Incorporated, and a request has been made to see the Kronos proposal, it will be resubmitted to the Attorney General for review."

(A) a copy of the written request for the information, if any, received by the governmental body; and

(B) a statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time not later than the 10th business day after the date the person receives the notice:

(i) each reason the person has as to why the information should be withheld; and

(ii) a letter, memorandum, or brief in support of that reason.

This office is unable to determine whether a notification in compliance with section 552.305, as amended, was sent. In any case, Kronos International has not submitted to this office any reason to withhold the requested information. As neither the county nor the third party has cited a statute or judicial decision that expressly holds the subject information to be privileged or confidential, and we are aware of none, the information is considered public and must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Patricia Michels Anderson
Assistant Attorney General
Open Records Division

PMA/jc

Ref: ID# 129651

Encl. Submitted documents

cc: Ms. Deborah Merkel
Automating Peripherals, Inc.
310 North Wilson Avenue
Woodridge Technology
Hartford, WI 53027-1641
(w/o enclosures)