



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

July 23, 2003

Ms. Julie Joe
Assistant County Attorney
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767

OR2003-5076

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 184704.

The Travis County Purchasing Office (the "county") received three requests for the winning proposal submitted in response to a particular RFP, and one request for this same information, as well as for all other responses and other information relating to the RFP. You claim that the requested documents may be confidential, but make no arguments and take no position as to whether the information is so excepted from disclosure. You inform this office and provide documentation showing that you have notified eight interested third parties (InterVoice-Brite, Frank Solutions, Tele-Works, Affiliated Telephone, Centurion, EPOS, Sonant, and Sprint), whose proprietary interests may be implicated by the request, of the request for information. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Public Information Act in certain circumstances). As of the date of this ruling, this office has received responses from Sonant and Tele-Works.

We first 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, InterVoice-Brite, Frank Solutions, Affiliated Telephone, Centurion, EPOS, and Sprint have not submitted to this office their reasons explaining why their information should not be released. Therefore, these parties have provided us no basis to conclude that their information is excepted from disclosure. *See, e.g.*, Gov't Code § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

However, we also note that the county has only submitted information provided to it by Frank Solutions. Accordingly, this ruling does not address any other information, and is limited to the information submitted as responsive by the county. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from Attorney General must submit copy of specific information requested, or representative sample if voluminous amount of information was requested). Because Frank Solutions has provided us no basis to conclude that its information is excepted from disclosure, we conclude that the county must release the information it has submitted from Frank Solutions.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report

that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/lmt

Ref: ID# 184704

Enc. Submitted documents

c: Mr. Jim Stafford
Executive Vice President
Sonant Corporation
4105 Sorrento Valley Blvd
San Diego, CA 92121
(w/o enclosures)

Ms. Elaine Herbst
Tele-Works, Inc.
210 Prices Fork Road, Suite C
Blacksburg, VA 24060
(w/o enclosures)

Mr. Steve Springfield
Affiliated Telephone
10109 McKalla Place, Suite F
Austin, Texas 78758
(w/o enclosures)

Mr. Steve L. Jenkins
DAISI Systems & Service, Inc.
P. O. Box 5605
Katy, Texas 77491
(w/o enclosures)

Mr. Paul Abney
InterVoice-Brite, Inc.
17811 Waterview Parkway
Dallas, Texas 75252
(w/o enclosures)

Mr. Greg Trainor
Vice-President/Operations
Frank Solutions, Inc.
9250 East Costilla, Suite 100
Greenwood Village, CO 80112
(w/o enclosures)

Mr. Don Ingham
Centurion, Inc.
4585 140th Avenue
Clearwater, FL 33762
(w/o enclosures)

Mr. Keith Blackmon
EPOS Corporation
P.. O. Box 3140
Auburn, AL 36831-3140
(w/o enclosures)

Ms. Taylor Haglund
Sprint
400 West 15th Suite 1400
Austin, Texas 78701
(w/o enclosures)