



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 24, 1994

Ms. Tamara Armstrong
Assistant County Attorney
County of Travis
County Courthouse
P.O. Box 1748
Austin, Texas 78767

OR94-488

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25345.

Travis County (the "county") received a request for the "evaluation synopsis" used to evaluate the bidders who submitted proposals to design, build, and operate the Travis County Community Justice Facility. The requestor also asked for "a copy of the successful bidder's proposal with the corporate financial statements withheld" and a copy of the videotaped presentations made by three of the bidders.¹ You contend that the information at issue is excepted from disclosure under section 552.104. You also noted that 552.110 of the Open Records Act may protect portions of the proposal.

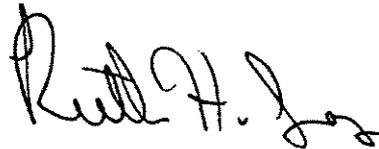
Section 552.104 excepts "information that, if released, would give advantage to a competitor or bidder." The purpose of section 552.104 is to protect a governmental body's interests in a commercial context by keeping some of the bidders from gaining unfair advantage over other bidders. Open Records Decision No. 541 (1990) at 4. However, generally neither the contract nor related information is excepted from disclosure under section 552.104 once the bidding process is over and a contract awarded. *Id.* at 5. You indicate that the contract has already been awarded to Wackenhut Corrections Corporation ("Wackenhut"). Since the contract has already been awarded, the requested portions of Wackenhut's proposal and the related information evaluating the proposals may not be withheld under section 552.104.

¹You did not submit to this office for review any videotapes. We assume you have already released these tapes, if they exist, to the requestor.

You stated that portions of Wackenhut's winning proposal may be excepted from disclosure as a "trade secret" under section 552.110. Pursuant to section 552.305 of the Open Records Act, this office provided Wackenhut the opportunity to submit reasons as to why the proposal should be withheld from disclosure. Wackenhut sent a letter to this office stating that it did not wish to claim any exceptions to disclosure. We must accept a claim that a document is excepted as a trade secret if a prima facie case is made and no argument is submitted that rebuts that claim as a matter of law. Open Records Decision No. 592 (1991) at 2. However, since no argument has been made that the proposal is protected from disclosure as a trade secret, Wackenhut's proposal may not be withheld under section 552.110. Open Records Decision No. 402 (1983).

Since the requested information is not excepted from disclosure under section 552.104 or 552.110, it must be released to the requestor. We are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/rho

Ref.: ID# 25345

Enclosures: Submitted documents

cc: Mr. Mark F. Schultz
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