



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 5, 1997

Mr. Tracy A. Pounders
Assistant City Attorney
Office of the City Attorney
City Hall
Dallas, Texas 75201

OR97-1301

Dear Mr. Pounders:

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# 106484.

The City of Dallas (the "city") received a request for information relating to "the city's on-going attempt to complete a High Technology Procurement for an electronic document management system (EDMS), involving bids submitted to the city by Innovative Computer Group and Compusite." You indicate that certain responsive information is being released to the requestor, but assert that other information is excepted from disclosure pursuant to sections 552.101, 552.104, 552.107, 552.111 and 552.305 of the Government Code. We have considered your arguments and have reviewed the representative sample of information submitted.¹

Section 552.104 protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 552.104 is generally invoked to except information relating to competitive bidding situations involving specific commercial or contractual matters. Open Records Decision No. 463 (1987). Governmental bodies may withhold bid information while governmental officials are in the process of evaluating the proposals and asking competitors to clarify their bids. Open Records Decision No. 170 (1977). Section 552.104 does not, however, except bids or proposals from disclosure once the bidding is over and the contract is in effect. Open Records Decision Nos. 306 (1982), 184 (1978).

¹In reaching our conclusion here, we assume that the "representative samples" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You argue that release of the information in Exhibits C and D and the Procurement Proposals (Exhibit G) would give each proposer knowledge of the other proposers' procurement proposal, thus giving it a competitive advantage in the selection process. Upon review of the information contained in Exhibits C, D and G, and assuming that the city has not yet awarded the contract, we conclude that the city may withhold the information contained in these exhibits from disclosure pursuant to section 552.104.²

You assert that certain marked information contained in Exhibit E is excepted pursuant to section 552.107. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 (1990) at 5. We agree that the information you have marked in Exhibit E may be withheld pursuant to section 552.107(1).

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.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/ch

Ref.: ID# 106484

Enclosures: Submitted documents

cc: Ms. Rose Farley
Staff Writer
Dallas Observer
P.O. Box 160288
Dallas, Texas 78218
(w/o enclosures)

²As we conclude that Exhibits C, D, and G are excepted from disclosure pursuant to section 552.104, we need not address your arguments for these exhibits under sections 552.101 and 552.305, nor your argument under section 552.111 for the information in Exhibit D.