



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 16, 1998

Ms. Nanette G. Williams  
Assistant City Attorney  
Office of the City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

OR98-0157

Dear Ms. Williams:

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# 112767.

The City of El Paso (the "city") received a request for "all proposals submitted to the City of El Paso in response to the city's request for proposals to privatize its convention and visitors bureau services." You have submitted a representative sample of the requested information for our review.<sup>1</sup> You assert that this information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the information at issue.

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).

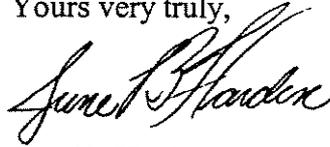
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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, 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 state that the "committee appointed to evaluate the proposals has determined that disclosure of the proposals to the public would have a negative impact on the City's ability to reach the best final offer during the negotiation process." Therefore, we conclude that the city may withhold the requested information pursuant to section 552.104. Once the competitive bidding process is completed and a contract has been awarded, the city may not continue to withhold this information under section 552.104. Open Records Decision No. 541 (1990) at 5.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/alg

Ref.: ID# 112767

Enclosures: Submitted documents

cc: Ms. Sharon Simonson  
El Paso Times  
P.O. Box 20  
El Paso, Texas 79999  
(w/o enclosures)