



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 15, 1998

Ms. Judy Ponder
General Counsel
General Services Commission
1711 San Jacinto
Austin, Texas 78711-3047

OR98-2185

Dear Ms. Ponder:

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# 118039.

The General Services Commission (the "commission") received a request for the names/addresses of companies sent a certain invitation to bid. You claim that the requested information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.104 excepts information that, if released, would give advantage to a competitor or bidder. The purpose of this exception is to protect the interests of a governmental body in competitive bidding situations. *See* Open Records Decision No. 592 (1991). However, other types of information may be withheld pursuant to section 552.104 during the competitive bidding process. *Cf.* Open Records Decision No. 170 (1977). For example, in Attorney General Opinion MW-591 (1982), this office determined that the General Land Office may withhold "the identities of those who nominate tracts to be leased by the School Land Board at mineral lease sales." We believe the rationale in Attorney General Opinion MW-591 (1982) is applicable here. Moreover, relying on Attorney General Opinion MW-591, this office recently concluded in Open Records Letter No. OR96-1991 (1996) that the facility could withhold a list of companies that expressed an interest in the purchase of the facility under section 552.104 of the Government Code.

You indicate that the document at issue is a reduced list from the centralized master bidders list. You further explain that a vendor must be on the central list in order to receive notices of bid opportunities, other wise known as an invitations to bid ("IFB"). The instant matter involves a certain IFB and one of the recipients of the corresponding IFB targeting

the reduced list. The requestor, a potential bidder, wishes to have the list of all other potential bidders who were sent the IFB. We have reviewed the arguments submitted by the commission and conclude that as the commission has not yet awarded a contract regarding this matter, it may withhold the requested information under section 552.104.

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,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/nc

Ref.: ID# 118039

Enclosures: Submitted documents

cc: Ms. Trina Bernhardt
Dataplex
7801 N. Lamar, Suite E-194
Austin, Texas 78752
(w/o enclosures)