



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 4, 2009

Ms. Terry Loudenburg  
Coordinator for Board and Community Relations  
Stafford Municipal School District  
1625 Staffordshire Road  
Stafford, Texas 77477

OR2009-07664

Dear Ms. Loudenburg:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 345190.

The Stafford Municipal School District (the "district") received a request for the purchase order or vendor agreement regarding the district's mail postage equipment. You claim the submitted invoices are 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 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations where the governmental body wishes to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except bids from disclosure after bidding is completed and the contract has been awarded. *See* Open Records Decision No. 541 (1990). However, in some situations section 552.104 will operate to protect from disclosure bid information that is submitted by successful bidders. *See id.* at 5; *see also* Open Records Decision No. 309 (1982).

We understand the district currently has a contract with the postage equipment vendor whose invoices are at issue; thus, the invoices do not pertain to a currently competitive bidding situation. You generally claim, however, the release of the submitted invoices would give an advantage to the requestor, a potential vendor, in future competitive bidding situations. In Open Records Decision No. 541, this office stated the predecessor to section 552.104 may protect information submitted by a successful bidder if the governmental body demonstrates public disclosure of the information will allow competitors to undercut future bids, and the governmental body solicits bids for the same or similar goods or services on a recurring basis. ORD 541 at 4; *see also* ORD 309. In this instance, you have not explained the submitted invoices pertain to same or similar goods or services for which the district solicits bids on a recurring basis, nor have you explained how release of the submitted invoices would cause the district actual or specific competitive harm in those recurring solicitations. Therefore, we find you have failed to demonstrate how the submitted invoices are excepted under section 552.104 of the Government Code, and they may not be withheld on this basis.

We note portions of the invoices may be protected under section 552.136 of the Government Code.<sup>1</sup> Section 552.136 of the Government Code provides:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. The submitted invoices include an account number, which we conclude constitutes an access device number for purposes of section 552.136. Thus, the district must withhold the marked account number under section 552.136 of the Government Code. The remaining information must be released.

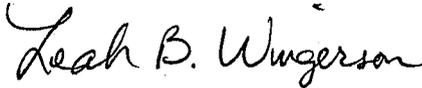
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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 345190

Enc. Submitted documents

c: Requestor  
(w/o enclosures)