



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 28, 2009

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>RD</sup> Floor  
Fort Worth, Texas 76102

OR2009-18250

Dear Ms. Byles:

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# 365498 (Fort Worth PIR No. 6010-09).

The City of Fort Worth (the "city") received a request for information related to request for proposal ("RFP") 09-0087.<sup>1</sup> 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 of the Government Code excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). 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

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<sup>1</sup>You state the city sought and received clarification from the requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

except bids from disclosure after bidding is completed and the contract has been awarded. See Open Records Decision No. 541 (1990).

You state that the bidding process for RFP 09-0087 has closed, and that the city has narrowed its interest to a single vendor, but that a final contract has not yet been executed. You state that until a final contract is signed, it is possible the negotiations with the selected bidder may fail, leaving the city unable to enter into a final contract and requiring the city to select another vendor or to issue a new RFP. You assert that releasing the submitted information would harm the city's negotiating position regarding RFP 09-0087. Based on your representations and our review, we conclude the city has demonstrated how release of the submitted information would harm its interests in a competitive situation. Accordingly, the city may withhold the submitted information under section 552.104 of the Government Code.

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, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 365498

Enc. Submitted documents

c: Requestor  
(w/o enclosures)