



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2011

Mr. Michael Pruneda
The Pruneda Law Firm, P.L.L.C.
For City of Pharr
P.O. Box 1664
Pharr, Texas 78577-1664

OR2011-02298

Dear Mr. Pruneda:

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# 409867.

The City of Pharr (the "city"), which you represent, received a request for specified bids. You claim that the submitted 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. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.104 of the Government Code protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." 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).

You indicate the bidding process for the sale of the city's convention center is not complete, and you state a contract has not been awarded. You assert release of the requested information "would give advantage to the requestor and any potential third party that may also gain possession of the pre-award information in all aspects of the proposals' pricing, budget, services, terms, and completeness." Having considered your arguments, we find you have demonstrated that release of the submitted information would harm the city's interests in a particular ongoing competitive situation. *See* ORD 592. Therefore, we conclude the city may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed.

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, 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/vb

Ref: ID# 409867

Enc. Submitted documents

c: Requestor
(w/o enclosures)