



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2012

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-06606

Dear Ms. Evans:

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# 453196 (GC 19398).

The City of Houston (the "city") received a request for "the bid tab results for the Janitorial Cleaning and Associated Services Bid (L24176)." You claim that the submitted information is excepted from disclosure under section 552.104 of the Government Code. In addition, you state some of the submitted information may implicate the proprietary interests of third parties. Accordingly, you inform us you have notified sixteen interested third parties of the request and of their right to submit comments to this office as to why the submitted information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under the Act in certain circumstances). We received comments from UMB Enterprise, Inc., and Integrity National Corporation. We have considered the claimed exceptions 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 a governmental body's interests in competitive bidding situations, including where the governmental body may wish to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 at 8 (1991)

(statutory predecessor to section 552.104 designed to protect interests of governmental body). 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 executed. *See* Open Records Decision No. 541 (1990).

You state the submitted information pertains to the city's bidding process for janitorial services for the city. You indicate a contract has not yet been awarded. You assert release of the submitted information at this stage in the bidding process would give bidders a competitive advantage and would harm the city's ability to obtain the lowest price and most favorable terms possible. Based on your representations and our review, we find the city has demonstrated release of the submitted information could harm the city's interests in a particular competitive situation. Accordingly, 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. *See* Open Records Decision No. 170 at 2 (1977) (release of bids while negotiation of proposed contract is in progress would necessarily result in an advantage to certain bidders at expense of others and could be detrimental to public interest in contract under negotiation). As section 552.104 is dispositive, we do not address the remaining submitted arguments.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 453196

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Francis Foyeku
Advacs, Inc.
6201 Bonhomme, Suite 266N
Houston, Texas 77036
(w/o enclosures)

Mr. Sam Son
Unicare Building Maintenance
11148 Morrison Lane
Dallas, Texas 75229
(w/o enclosures)

Ms. Veronica Rosen
United Maintenance Co., Inc.
1550 South Indiana, Suite 300
Chicago, Illinois 60505
(w/o enclosures)

Mr. Curtis McLemore
McLemore Building Maintenance, Inc.
110 Fargo Street
Houston, Texas 77006
(w/o enclosures)

Mr. Bill Hudson
UBM Enterprise, Inc.
4901 Milwee Street, Suite 103
Houston, Texas 77092
(w/o enclosures)

Mr. Johnny Harris
Deluxe Cleaning Concepts
855 Uvalde, Suite D1
Houston, Texas 77015
(w/o enclosures)

Mr. Jason Yoo
HBS National Corporation
11777 Katy Freeway, Suite 190
Houston, Texas 77079
(w/o enclosures)

Mr. Darryl King
PPG People Source, Inc.
1235 North Loop West, Suite 1000
Houston, Texas 77008
(w/o enclosures)

Ms. Virginia Staffanell
American Facility Services
Suite A
1325 Union Hill Industrial Court
Alpharetta, Georgia 30004
(w/o enclosures)

Mr. Michael Powell
ServiceMaster Commercial Cleaning
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17903 Zagar Lane
Houston, Texas 77090
(w/o enclosures)

Ms. Cindy Cantrell
C & D Janitorial Service, Inc.
9500 Westview Drive, Suite 114
Houston, Texas 77055
(w/o enclosures)

Ms. Danetta Chargois
Midtown Cleaning & Janitorial Service
2111 Holly Hall, Suite 4704
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(w/o enclosures)

Mr. Edward Chatman, Sr.
A.M.E. Services, Inc.
P.O. Box 397
Norco, Louisiana 70079
(w/o enclosures)

Mr. Antoninus H. Hines
CEO
Integrity National Corporation
15400 Calhoun Drive, Suite 190
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(w/o enclosures)

Ms. Michelle LeBlanc
SanServ of Houston, L.L.C.
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P.O. Box 20332
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(w/o enclosures)

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