



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 8, 2014

Ms. Hadassah Schloss
Open Records Coordinator
Texas General Land Office
P.O. Box 12873
Austin, Texas 78711-2873

OR2014-18017

Dear Ms. Schloss:

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# 538921.

The Texas General Land Office (the "GLO") received a request for three categories of information: (1) a list of all submitting contractors and their scores for RFP-21910-SK; (2) the electronic cancellation notice published for RFP-21910B-SK; and (3) a list of all submitting contractors and their scores for RFP-21910B-SK. You state you will release some information. You claim 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.

Initially, we note some of the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2012-19173 (2012). There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, for the submitted information that is identical to the information previously requested and ruled upon by this office, we conclude the GLO may continue to rely on Open Records Letter No. 2012-19173 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). To the extent the submitted information was not previously ruled on, we will address your argument under section 552.104 of the Government Code.

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).

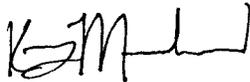
You inform us the submitted information is related to RFP-21910B-SK. You further state RFP-21910B-SK was canceled and no awards were made. You do not explain how release of the submitted information would harm the GLO in a particular competitive situation. Therefore, we find the GLO has failed to demonstrate the applicability of section 552.104 of the Government Code to the submitted information, and it may not be withheld on that basis.

In summary, the GLO may continue to rely on Open Records Letter No. 2012-1973 as a previous determination and withhold or release the identical information in accordance with that ruling. The GLO must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 538921

Enc. Submitted documents

c: Requestor
(w/o enclosures)