



February 26, 2015

Ms. Caroline L. Cross
Assistant District Attorney
Civil Division
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2015-03817

Dear Ms. Cross:

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# 555257.

Dallas County (the "county") received a request for the winning proposal for RFP#2010-090-5232. You claim the requested information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of the requested information may implicate the interests of Qnet Information Services ("Qnet"). Accordingly, you state, and provide documentation demonstrating, the county notified Qnet of the request for information and of its right to submit arguments stating why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). 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

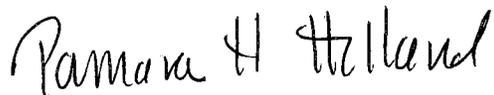
potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except information from disclosure after bidding is completed and the contract has been awarded. *See* Open Records Decision No. 541 (1990). However, in Open Records Decision No. 541, this office stated that the predecessor to section 552.104 may protect information after bidding is complete if the governmental body demonstrates that 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. *See id.* at 5 (recognizing limited situation in which statutory predecessor to section 552.104 continued to protect information submitted by successful bidder when disclosure would allow competitors to accurately estimate and undercut future bids); *see also* Open Records Decision No. 309 (1982) (suggesting such principle will apply when governmental body solicits bids for same or similar goods or services on recurring basis).

The county raises section 552.104 of the Government Code for the submitted information. You state the county awarded Qnet a contract, which has expired, based on the submitted proposal. You explain the county is re-soliciting the contract and it is being competitively bid again. You also state the county solicits bids for the same service on a recurring basis. You explain release of the submitted information would allow competitors to undercut their bids for the current proposal and would place the county at a disadvantage in obtaining fair bids for the current solicitation, as well as for future solicitations. Based on your representations and our review of the information at issue, we agree the county 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.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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/bhf

Ref: ID# 555257

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Larry Hall
President/CEO
Qnet Information Services
11328 Pegasus Street
Dallas, Texas 75238
(w/o enclosures)