



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 13, 2015

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2015-07043

Dear Ms. Cost:

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# 559890 (DPS PIR No. 15-0305).

The Texas Department of Public Safety (the "department") received a request for a list of companies that submitted offers or bids in response to a specified request for offers, and all documentation submitted by each bidder. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. You also state the request implicates the proprietary interests of certain third parties. Accordingly, you notified Austin Ribbon & Computer Supplies, Inc., and MorphoTrust USA, LLC, of the request and of their right to submit arguments to this office explaining why their information should not be released. *See* Gov't Code § 552.305; *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). 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

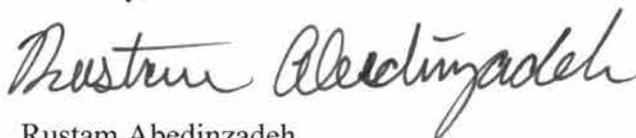
to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991) (statutory predecessor to section 552.104 designed to protect interests of governmental body in competitive situation, and not interests of private parties submitting information to government). 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).

In this instance, the department states the submitted information consists of third party proposals that pertain to a solicitation for bids that was cancelled. The department informs us that it anticipates another solicitation for this project will be issued at a later date. Because a contract has not yet been executed, the department explains release of the requested records prior to execution of a contract would harm the department's interest in future contract negotiation. Based on these representations and our review, we conclude the department has demonstrated that release of the submitted information would harm its interests in a competitive situation. Therefore, the department may withhold the submitted information pursuant to 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,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 559890

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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