



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

April 12, 1989

Mr. Richard D. Upton  
President  
Greater Dallas Chamber  
1201 Elm Street, Suite 2000  
Dallas, Texas 75270

Mr. Thomas D. Hanlon  
Executive Director  
Fort Worth Convention  
and Visitors Bureau  
100 E. 15th Street, Suite 400  
Fort Worth, Texas 76012

Dear Mr. Upton and Mr. Hanlon:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5925; this decision is OR89-116.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

On behalf of the Greater Dallas Chamber, Mr. Upton asks whether the Chamber may withhold the names and addresses of groups that tentatively scheduled conventions in Dallas but later decided to go to another city. On behalf of the Fort Worth Convention and Visitors Bureau, Mr. Hanlon asks whether the Bureau may withhold the same information and the names of entities that have "booked" conventions.

Mr. Richard D. Upton  
Mr. Thomas D. Hanlon  
April 12, 1989  
Page 2

You both claim that releasing this information would enable cities competing for convention business to contact these entities and persuade them to hold their conventions elsewhere some time in the future. Mr. Upton claims that entities that have cancelled are real future prospects. You both claim that section 3(a)(4) of the Open Records Act protects the names of these entities from required disclosure.

Section 3(a)(4) protects "information which, if released, would give advantage to competitors or bidders." Section 3(a)(4) applies only when a governmental body shows actual or potential harm in a particular competitive situation. General allegations that an unspecified competitor might gain an advantage from disclosure are insufficient to invoke section 3(a)(4). See Apodaca v. Montes, 606 S.W.2d 734 (Tex. Civ. App. - El Paso 1980, no writ); Open Records Decision No. 463 (1987). You may not withhold the information at issue here under section 3(a)(4).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-116.

Yours very truly,

*Open Government Section  
of the Opinion Committee*

Open Government Section  
of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/bc

Ref.: ID# 5935

cc: Charles Duncan  
Senior Reporter  
WFAA TV  
Communications Center  
Dallas, Texas 75202