



THE ATTORNEY GENERAL
OF TEXAS

JIM SLATTON
ATTORNEY GENERAL

June 4, 1990

Ms. Teresa B. Winter
Provost, Sheldon, Steele, Hughes,
Giblin, Branick & Wimberly
Attorney for Southeast Texas
Regional Planning Commission
P.O. Box 2307
Port Arthur, Texas 77643

OR90-215

Dear Ms. Winter:

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# 9650.

The Southeast Texas Regional Planning Commission E9-1-1 Emergency Network (hereinafter the network) received an open records request for certain documents pertaining to a request for proposals for rural addressing and mapping of Hardin, Jefferson, and Orange Counties. You contend that section 3(a)(4) of the Open Records Act protects the requested information because the network is still in the process of evaluating the various proposals.

Section 3(a)(4) of the Open Records Act protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 3(a)(4) is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. See, e.g., Open Records Decision No. 463 (1987). Governmental bodies may withhold this type of information while the governmental officials are in the process of interpreting the proposals and the competitors are free to furnish additional information. Cf. Open Records Decision No. 170 (1977). Section 3(a)(4) does not, however, except bids or proposals from disclosure once the bidding is over and the contract has been awarded, Open Records Decision Nos. 306 (1982); 184 (1978), or where no contract is awarded. Open Records Decision No. 201 (1978).

Because you state that the network anticipates the awarding of the contract, you may withhold the submitted proposals pursuant to section 3(a)(4). Release of this information during the time that competitors may clarify, modify, or withdraw their proposals could result in an advantage to the other competitors for the contract or damage the network's ability to obtain truly competitive bids. Once the network awards the contract, however, section 3(a)(4) will no longer apply.

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 OR90-215.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/le
Ref.: ID# 9650