



Office of the Attorney General
State of Texas

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ATTORNEY GENERAL

May 17, 1991

Ms. Diana L. Granger
Deputy City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR91-240

Dear Ms. Granger:

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# 12069.

The City of Austin received two open records requests for copies of all proposals submitted to the city in connection with its RFP for a central processing unit. The contract was awarded to IBM, which contends that its pricing proposal information comes under the protection of sections 3(a)(1), 3(a)(4), and 3(a)(10) of the Open Records Act.

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). Because in this instance the contract has been awarded, section 3(a)(4) is inapplicable.

Section 3(a)(10), in conjunction with section 3(a)(1), requires that the city withhold from public disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." In Open Records Decision No. 306 (1982), this office held that while technical material which relates to the substance of a proposal is generally excepted from disclosure, pricing proposals are not so excepted and may be withheld only during the bid submission process. Because the submission process

has been concluded, the pricing proposals are no longer protected from public disclosure. *See also* V.T.C.S. art. 6252-17a, § 6(3) (information in any contract dealing with the expenditure of public funds by governmental bodies is public information). Consequently the pricing proposals must be released.

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 OR91-240.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/RWP/lb

Ref.: ID# 12069
ID# 12070
ID# 12107
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Enclosures: Open Records Decision No. 306
Submitted documents

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