



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

September 20, 1991

Mr. Thomas P. Curtis  
Attorney for Harlingen Consolidated I.S.D.  
Stapleton, Whittington, Curtis & Boswell  
201 North First Street  
Harlingen, Texas 78550

OR91-431

Dear Mr. Curtis:

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# 12882.

You have received a request for copies of submissions made in response to a bid solicitation. You claim that the requested information is excepted from required public disclosure by sections 3(a)(4) and 3(a)(10) of the Open Records Act.

We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Open Records Decision No. 541 (1990) held that "[o]nce the competitive bidding process has ceased and a contract has been awarded, section 3(a)(4) will not except from disclosure either information submitted with a bid or the contract itself." *Id.* at 5. You state that the contract has been awarded to United Urethane and has been denied South Texas Urethane. Because the bidding process has ended, you may not properly invoke a section 3(a)(4) exception.

Section 3(a)(10) excepts from required public disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." You claim that the requested information "may very well be privileged or confidential." Open Records Decision No. 592 (1991) held that in order to be excepted from required public disclosure under section 3(a)(10) of the Open Records Act, commercial or financial information obtained from a person must be privileged or confidential under the common or statutory law of Texas. When an agency or company fails to provide

relevant information regarding factors necessary to make a 3(a)(10) claim, there is no basis to withhold information under section 3(a)(10). *See* Open Records Decision No. 402 (1983). Because you have not demonstrated that the requested information is deemed privileged or confidential under the common or statutory law of Texas, you may not withhold the requested information under section 3(a)(10). The requested information 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 OR91-431.

Very truly yours,



William Walker  
Assistant Attorney General  
Opinion Committee

WW/GK/lb

Enclosures: Open Records Decision No. 592 (1991)

Ref.: ID# 12882

cc: Ms. Sally S. Sherek  
Secretary/Treasurer  
South Texas Urethane, Inc.  
P.O. Box 720057  
McAllen, Texas 78504