



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1993

Mr. James A. Lynaugh
Executive Director
Texas Department of Criminal Justice
P.O. Box 13084
Austin, Texas 78711

OR93-167

Dear Mr. Lynaugh:

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# 19106.

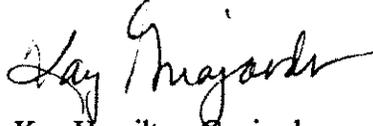
The Texas Department of Criminal Justice received an open records request for certain records that you contend may be withheld from the public pursuant to section 3(a)(4) of the Open Records Act. Section 3(a)(4) of the Open Records Act protects from required public disclosure "information which, if released, 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 evaluating the proposals and may ask the competitors to clarify their bids, negotiate contract terms, etcetera. *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 is in effect. Open Records Decision Nos. 306 (1982); 184 (1978).

Because you state that the Texas Department of Criminal Justice has not yet finalized the contract terms, you may withhold the submitted proposals at this time 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 city's ability to obtain truly competitive bids.

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 OR93-167.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Opinion Committee

KHG/lmm

Ref.: ID# 19106

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