



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 29, 1993

Mr. Bill Zeis
Senior Staff Attorney
Legal Division
Texas Air Control Board
12124 Park 35 Circle
Austin, Texas 78753

OR93-339

Dear Mr. Zeis:

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# 19896.

The Texas Air Control Board (the "board") received two open records requests for information in proposals submitted in response to a request for proposals for a vehicle inspection and maintenance program in Texas. Specifically, the requests are for the names of the bidders and geographic locations that each bidder proposes to serve. You have released to the requestors the names of the bidders; however, you contend that the geographic regions that each bidder proposes to serve may be withheld from the public pursuant to section 3(a)(4) of the Open Records Act.

Section 3(a)(4) 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. 592 (1991). A governmental body may withhold this type of information while evaluating the proposals, during which time the bidders may be required to clarify their proposals. *See* Attorney General Opinion MW-591 (1982). Release of this information during the time that competitors may clarify, modify, or withdraw their proposals could damage the city's ability to obtain truly competitive bids. 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. 541 (1990); 306 (1982). Because the board has not yet awarded the contract and may

request further clarification of the submitted proposals, you may withhold the requested information at this time pursuant to 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 contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Opinion Committee

LRD/KKO/jmn

Ref.: ID# 19896

Enclosures: submitted documents

cc: Mr. Jerry Carter
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