



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 25, 1995

Ms. Evelyn Johnson
Materials Management
2910 East Fifth Street
Austin, Texas 78702

OR95-214

Dear Ms. Johnson:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30210.

Capital Metropolitan Transportation Authority ("Capital Metro") solicited proposals for public relations support services, then received open records requests for the amount Capital Metro has in its budget for public relations support services.¹ Capital Metro asserts that it may withhold information about its budget pursuant to section 552.104 of the Government Code.

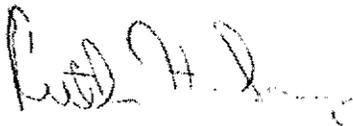
Section 552.104 of the Open Records Act protects from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Section 552.104 is generally invoked to except information submitted to a governmental body as part of a bid or similar proposal. *See* Open Records Decision No. 463 (1987). Governmental bodies may withhold such information while the governmental officials are in the process of evaluating the proposals and may ask the competitors to clarify their bids. Open Records Decision No. 170 (1977). Section 552.104 is a discretionary exception that the governmental body may choose to waive. Open Records Decision No. 592 (1991) at 8.

¹One of the open records requests also asked for a proposal that was submitted to Capital Metro. You indicate that you have already released that proposal to the requestor.

The requested information concerns Capital Metro's budget, which generally is public information under section 552.022(3) of the Government Code. In any event, section 552.104 is not applicable because Capital Metro has already selected a proposal and signed a contract for public relations support services. Section 552.104 is not applicable once a contract has been signed. Open Records Decision Nos. 306 (1982); 184 (1978).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/rho

Ref.: ID# 30210

Enclosures: Submitted documents

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