



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 17, 1996

Mr. David Ross Brown
Assistant General Counsel
General Services Commission
P.O. Box 13047
Austin, Texas 78711-3047

OR96-0563

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38580.

The General Services Commission (the "commission") received three requests for information related to the Robert E. Johnson State Office Building.¹ You have identified the information responsive to the requests and submitted representative samples of the information to this office for review.² This information consists of bid proposals submitted to the commission by private companies, the criteria the commission used in evaluating the bids, the commission's rankings of the bids, and other related documents. You believe that the information is excepted from disclosure by sections 552.104 and 552.110 of the Government Code.

¹The requestors also seek access to other information, such as all grievances filed against the commission's chairman. You have raised no objection to release of this other information. Therefore, we assume that you have provided this information to the requestors.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Pursuant to section 552.305, we notified the parties whose proprietary interests may be implicated by these requests of their opportunity to claim that the requested information is excepted from required public disclosure. Only 3D/International responded, and 3D/International stated that it has "no objection to the release of any information provided by our Company in pursuit of Architectural Services for this project." Although the commission makes mention of section 552.110, the commission does so "without taking a position." As we have before us no arguments for excepting the information from disclosure under section 552.110, we address only the commission's arguments for exception under 552.104.

Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect a governmental body's interests in competitive bidding situations. See Open Records Decision No. 592 (1991). However, section 552.104 does not protect the interests of private parties that submit information to a governmental body. *Id.* at 8-9. Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a competitor will gain an unfair advantage will not suffice. Open Records Decision No. 541 (1990) at 4. Furthermore, section 552.104 is generally inapplicable once bidding is complete and a governmental body has awarded the contract. *Id.* at 5. See Gov't Code § 552.022.

It has come to our attention that the contract for architectural services for the Robert E. Johnson State Office Building has been awarded. Under these circumstances, section 552.104 is inapplicable. Consequently, the information at issue must be released to the requestor.

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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/rho

Ref.: ID# 38580

Enclosures: Submitted documents

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