



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1996

Mr. Frank Stenger-Castro
General Counsel
Texas Workers' Compensation
Insurance Facility
8303 MoPac Expressway North - Suite 310
Austin, Texas 78759-8396

OR96-2453

Dear Mr. Stenger-Castro:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your requests were assigned ID# 102727 and ID# 103483.

The Texas Workers' Compensation Insurance Facility (the "facility") received two related open records requests. The first request is for "all documents related to the sale of the facility or its assets, including, but not limited to, all requests for proposals" and "copies of the facility's annual reports for each of the past five years." The second request is for "all documents related to bids or other proposals submitted to the facility concerning a possible acquisition, transfer, merger, or any other transaction involving the facility or any of its assets or liabilities." You have released the Request for Proposals/Qualifications, the requested annual reports and various other records. You have submitted the remaining responsive documents to this office for review and contend that section 552.104 of the Government Code exempts the information, including the names of the companies who have expressed an interest in the purchase of the facility, from required public disclosure.

Section 552.104 exempts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." Section 552.104 is generally invoked to withhold information submitted to a governmental body as part of a bid or similar proposal. *See, e.g.*, Open Records Decision No. 463 (1987). However, other types of information may be withheld pursuant to section 552.104 during the competitive bidding process. *Cf.* Open Records Decision No. 170 (1977). For example, in Attorney General Opinion MW-591 (1982), this office determined that the General Land Office may withhold "the identities of those who nominate tracts to be leased by the School Land Board at mineral lease sales." We believe the rationale in Attorney General Opinion MW-591 (1982)

is applicable here. Moreover, relying on Attorney General Opinion MW-591, this office recently concluded in Open Records Letter No. 96-1991 (1996) that the facility could withhold a list of companies that expressed an interest in the purchase of the facility under section 552.104 of the Government Code. Because you state that the facility has not yet awarded a contract regarding this matter, the facility may withhold the requested information under section 552.104.

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,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref.: ID#'s 102727, 103483

Enclosures: Submitted documents

cc: Mr. Richard Oppel, Jr.
The Dallas Morning News
1005 Congress, Suite 930
Austin, Texas 78701
(w/o enclosures)