



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 3, 1997

Mr. Gary E. Keane  
General Counsel  
Dallas/Fort Worth International Airport  
P.O. Drawer 619428  
DFW Airport, Texas 75261-9428

OR97-0689

Dear Mr. Keane:

You ask 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# 104980.

The Dallas/Fort Worth International Airport (the "airport") received an open records request for, among other things, a copy of the successful bid proposal submitted by Adclaim, Inc. ("Adclaim") for carousel advertising services at the airport. You state that most of Adclaim's proposal will be made available to the requestor. Adclaim has objected, however, to the release of certain financial information contained in its proposal, and you accordingly seek an open records decision from this office pursuant to section 552.305 of the Government Code. Consequently, this office notified representatives of Adclaim of the open records request and requested an explanation as to why the information at issue is excepted from public disclosure.

Adclaim timely responded to our request for briefing and contends that the financial information is excepted from required public disclosure pursuant to section 552.104 of the Government Code. Section 552.104 excepts from required public disclosure "information that, if released, would give advantage to a competitor or bidder." For example, section 552.104 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). In these situations, the exception protects the government's interests in obtaining the most favorable proposal terms possible by denying access to proposals prior to the award of a contract.

Because section 552.104 is intended to protect *governmental* interests, a third party such as Adclaim lacks standing to assert this exception. *See* Open Records Decision No. 592 (1991) (reversed on other grounds).<sup>1</sup> Accordingly, we cannot consider Adclaim's contentions with regard to this particular exception. Because Adclaim has raised none of the act's other exceptions to required public disclosure, we conclude the information at issue must be released.

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,



Kay Hamilton Guajardo  
Assistant Attorney General  
Open Records Division

KHG/RWP/rho

Ref.: ID# 104980

Enclosures: Submitted documents

cc: Mr. Robert M. Chiaviello, Jr.  
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(w/o enclosures)

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<sup>1</sup>We additionally note that section 552.104 does not 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 there is no ongoing competitive situation to which the information at issue relates, section 552.104 would not apply.