



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 30, 1998

Ms. Marianne Landers Banks
City Attorney
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR98-1108

Dear Ms. Banks:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 115010.

The City of Georgetown (the "city") received a request for "all bids received by the city of Georgetown and/or the 4B corporation for the roughly 200 acre tract on the San Gabriel River, or any portions of that tract, since Jan. 1, 1997." You contend that the requested information is excepted from disclosure by section 552.104 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.104 of the Government Code states:

Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

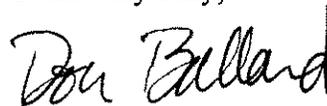
The purpose of this exception is to protect the interests of a governmental body in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 is not designed to protect the interests of private parties that submit information to a governmental body. *Id.* at 8-9. This exception protects information from public disclosure if the governmental body demonstrates potential specific harm to its interests in a particular competitive situation. *See* Open Records Decision Nos. 593 (1991) at 2, 463 (1987), 453 (1986) at 3. A general allegation or a remote possibility of an advantage being gained is not enough to invoke the protection of section 552.104. Open Records Decision Nos. 541 (1990)

at 4, 520 (1989) at 4. As the exception was developed to protect a governmental body's interests, that body may waive section 552.104. *See* Open Records Decision No. 592 (1991) at 8.

In this instance, you explain that the city is attempting to sell a specific area of land that the city had planned to use in connection with Power Computing Corporation. You indicate that the city's 4B Corporation, Georgetown 4B, Inc., has entered into an earnest money contract for the sale of a portion of the property at issue. You state that you wish to withhold the requested information "until the sale of the Partial Property to Mr. Hall is closed and consummated." You also indicate that the city may solicit bids again for the remaining property after the partial property sale is closed. You have also specifically outlined how and why release of the requested information would give advantage to competitors. Based on your arguments, we believe that you have shown the applicability of section 552.104 in this instance. *See* Attorney General Opinion MW-591 (1982); Open Records Decision No. 170 (1977); *see also* Open Records Decision No. 541 (1990). You may withhold the requested information at this time.

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 115010

Enclosures: Submitted documents

cc: Mr. Kyle Johnson
Austin American Statesman
203 E. Main
Round Rock, Texas 78664
(w/o enclosures)