



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 25, 2009

Ms. Carolyn Foster  
Associate General Counsel  
Parkland Health & Hospital System  
5201 Harry Hines Boulevard  
Dallas, Texas 75235

OR2009-02467

Dear Ms. Foster:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 335739 (DCHD No. 08-039).

The Dallas County Hospital District d/b/a Parkland Health & Hospital System ("Parkland") received a request for proposals submitted in response to a specified RFP. You claim that the submitted information is excepted from disclosure under sections 552.104, 552.110, 552.128, and 552.137 of the Government Code.<sup>1</sup> You also state that release of the requested information may implicate the proprietary interests of American Medical Response Ambulance Service, Inc. ("AMR") and Texas Life Line Corporation. Accordingly, you have notified these companies of the request and of their opportunity to submit arguments to this office as to why their information should be excepted from public disclosure. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from AMR, considered the submitted arguments, and reviewed the submitted information.

Section 552.104 excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104. The purpose of section 552.104 is to protect a governmental body's interests in competitive bidding situations, including where the governmental body may wish to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 at 8 (1991). Section 552.104 requires a showing of some actual or specific harm in a particular competitive situation; a general allegation that a bidder will gain an unfair advantage will not suffice. Open Records Decision No. 541 at 4

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<sup>1</sup>You inform us that the requestor agreed to allow Parkland to redact confidential patient identifying information. As this information is no longer encompassed by the request, it is not responsive and we do not address its availability in this ruling.

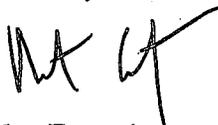
(1990). However, section 552.104 does not except from disclosure information relating to competitive bidding situations once a contract has been executed. Open Records Decision Nos. 306 (1982), 184 (1978).

You inform us that the submitted information contains responses to a cancelled RFP issued by Parkland for patient transport services. You state that Parkland reissued the RFP on December 2, 2008, and thus that the bidding process was pending at the time and date that Parkland received the present request for information. You argue that release of the submitted information "would create an unfair competitive advantage to the [r]equestor and ultimately harm the competitive bid process as to the pending RFP[.]" Based on these representations, we find that release of the submitted information would give an advantage to a competitor or bidder. Accordingly, Parkland may withhold the submitted information in its entirety under section 552.104 of the Government Code. As our ruling is dispositive, we need not address any remaining arguments against disclosure.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/jb

Ref: ID# 335739

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)