



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2009

Mr. James Mu
Assistant General Counsel
TDCJ- Office of the General Counsel
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2009-04926

Dear Mr. Mu:

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# 334828.

The Texas Department of Criminal Justice (the "department") received a request for all responses for a specified request for proposals for offender banking systems. You claim that the submitted information is excepted from disclosure under sections 552.104, 552.110, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). This exception protects a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). 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. *See* Open Records Decision No. 541 at 4 (1990). Section 552.104 does not protect information relating to competitive bidding once a contract has been awarded and is in effect. *See* Open Records Decision Nos. 306 (1982), 184 (1978).

You state the information you have marked is related to a competitive bidding process that has yet to result in the selection of a winning bidder. You inform us that there is no

guarantee that the vendors who have submitted proposals will be selected for the award of the contract. You argue that release of the information in question at this time would adversely affect the competitive process itself and the department's interest in obtaining the best bargain from the competition. Based on your representations, we conclude that the department may withhold the information you have marked in its entirety at this time under section 552.104 of the Government Code.¹

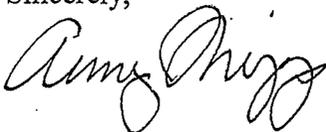
Next, you claim the insurance policy numbers in the remaining information are excepted from disclosure under section 552.136 of the Government Code. Section 552.136 states that "[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136. The department must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code.

In summary, the department may withhold the information you have marked under section 552.104 of the Government Code. The department must withhold the insurance policy numbers in the remaining information under section 552.136 of the Government Code.

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, 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

¹As our ruling on this issue is dispositive, we do not address your remaining argument against disclosure of this information.

Ref: ID#344828

Enc. Submitted documents

cc: Requestor
(w/o enclosures)