



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2010

Mr. J. Kyle Verret
Assistant Criminal District Attorney
Brazoria County Courthouse
111 E. Locust, Suite 408A
Angleton, Texas 77515

OR2010-01687

Dear Mr. Verret:

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# 369227.

Brazoria County (the "county") received a request for information pertaining to a specified company. You state you have released most of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.104 of the Government Code. You also explain that the submitted information may contain a third party's proprietary information subject to exception under the Act. Accordingly, you have notified Hostetler Johnston, L.L.C. ("Johnston") of this request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104 of the Government Code states:

- (a) 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.
- (b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

Gov't Code § 552.104. The purpose of section 552.104 is to protect the purchasing interests of a governmental body in competitive bidding situations where the governmental body

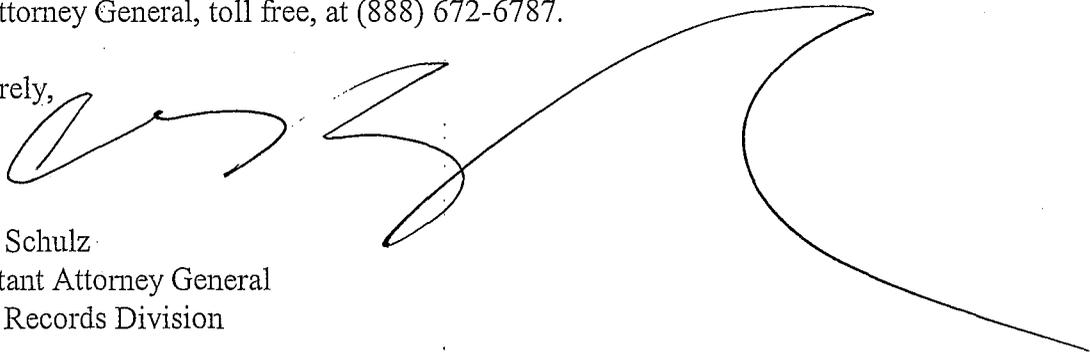
wishes to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except bids from disclosure after bidding is completed and the contract has been awarded. *See* Open Records Decision No. 541 (1990).

The county states that the Brazoria County Adult Detention Facility expansion project has not yet been opened for bidding. The county further states that release of the submitted information would give an advantage to a bidder regarding the expansion project. Based on our review of the county's arguments and the submitted information, we find in this instance that the county has adequately demonstrated that release of the submitted information would cause potential harm to its interests in the upcoming competitive solicitation. Accordingly, we conclude that the county may withhold the submitted information under section 552.104 of the Government Code. As our ruling is dispositive, we need not address your remaining argument 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, 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, toll free, at (888) 672-6787.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/cc

Ref: ID# 369227

Enc. Submitted documents

cc: Requestor
(w/o enclosures)