



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 5, 2010

Ms. Anne M. Constantine
Legal Counsel
Dallas/Fort Worth International Airport
P.O. Box 619428
DFW Airport, Texas 75261-9428

OR2010-03272

Dear Ms. Constantine:

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# 371937.

The Dallas-Fort Worth International Airport Board (the "board") received a request for the proposals submitted in response to solicitation number 7005221. You claim the submitted proposals are excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim 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. *See* Open Records Decision No. 592 (1991). Moreover, 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. Open Records Decision No. 541 at 4 (1990). Section 552.104 does not except information relating to competitive bidding situations once a contract has been executed. Open Records Decision Nos. 306 (1982), 184 (1978).

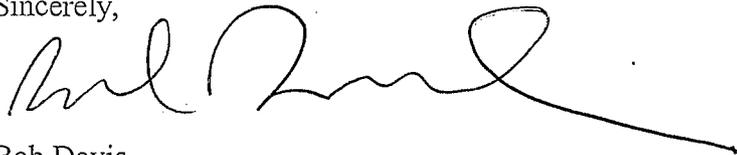
You explain the submitted information pertains to bids submitted in response to a solicitation for non-public facilities maintenance services. You state although the board has selected a winning proposal, it has not yet executed a contract and thus the solicitation is still an open procurement matter. You also state release of the submitted proposals prior to execution of

the contract would harm the board's interest in the procurement process. Based on your representations and our review, we conclude release of the submitted information would give advantage to a competitor or bidder; therefore, the information is excepted from release under section 552.104. However, as you acknowledge, the board may no longer withhold the submitted information under this exception to disclosure once a contract has been executed. *See* ORD 541 at 5.

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,

A handwritten signature in black ink, appearing to read 'Bob Davis', with a long horizontal flourish extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 371937

Enc. Submitted documents

cc: Requestor
(w/o enclosures)