



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 3, 2010

Mr. Mark D. Kennedy
Assistant District Attorney, Chief Civil Division
Hays County Courthouse
111 East San Antonio Street, Suite 204
San Marcos, Texas 78666

OR2010-06309

Dear Mr. Kennedy:

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# 378298.

Hays County (the "county") received a request for property submissions related to the county's call for parks and habitat conservation lands. You claim that the submitted information is excepted from disclosure under sections 552.104 and 552.105 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of the requested information.¹

Section 552.104 of the Government Code protects from required public 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 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

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

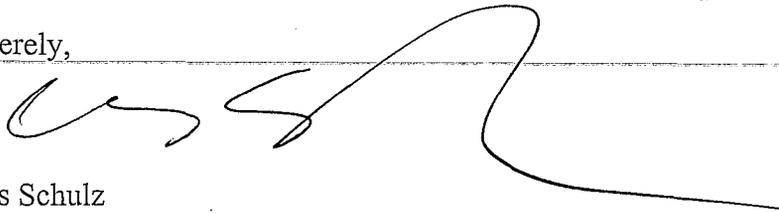
except bids from disclosure after bidding is completed and the contract has been awarded. *See* Open Records Decision No. 541 (1990).

You state the county issued a call for projects that requested proposals for the sale of real property interests. You state the county authorized its Parks and Open Space Advisory Board to review and rank the proposed projects. You assert that disclosing the details of any single project proposal would cloud the process, leading to counter-proposals and amendments to proposals, as each applicant attempts to gain an advantage on its competitors. You further state the county has not selected a winner from the submitted proposals. We therefore conclude that the county may withhold the requested information at this time pursuant to section 552.104 of the Government Code. However, we note that the county may no longer withhold the submitted information under this exception to disclosure once the contract has been executed and is in effect. *See* ORD 541 at 5. As our ruling is dispositive, we need not address your remaining argument.

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/eb

Ref: ID# 378298

Enc. Submitted documents

cc: Requestor
(w/o enclosures)