



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2010

Ms. Beth Moroney
Paralegal, Office of the City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2010-09801

Dear Ms. Moroney:

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# 385109 (COSA File # 10-0574).

The City of San Antonio (the "city") received a request for the proposals submitted in response to the Web Based Online Training System RFCSP (026-09-DR). You claim that the submitted information is excepted from disclosure under section 552.104 of the Government Code.¹ Additionally, you state that release of this information may implicate the proprietary interests of Critical Information Network, L.L.C., and Centre Learn Solutions, L.L.C., (collectively the "third parties"). Accordingly, you inform us, and provide documentation showing, that you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code § 552.305(d) (permitting interested third party to submit to attorney general reasons why requested information should not be released); 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

¹Although, you raised section 552.108 of the Government Code as an exception to disclosure of the requested information, you have provided no arguments regarding the applicability of that section. Since you have not submitted arguments concerning that exception, we assume that you no longer urge it. *See* Gov't Code §§ 552.301(b), (e), .302

certain circumstances). We have considered the exception you claim and reviewed the submitted information.

The city raises section 552.104 of the Government Code, which excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The purpose of this exception is to protect 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). 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 indicate that the submitted information pertains to an RFP that has not yet been concluded by the city. You also state that the negotiations are ongoing and that disclosure of the submitted information would "hamper the city's efforts to . . . [obtain] these services at the best price possible." Having considered your arguments, we find you have demonstrated that section 552.104 is applicable to the submitted information. Therefore, we conclude the city may withhold the submitted information under section 552.104 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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 385109

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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(w/o enclosures)

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73 East Forrest Avenue, Suite 140
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