



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 11, 2010

Mr. Miguel A. Saldaña
Walsh, Anderson, Brown, Gallegos & Green, P.C.
103 East Price Road, Suite A
Brownsville, Texas 78521

OR2010-12174

Dear Mr. Saldaña:

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# 390692 (BISD# 4850).

The Brownsville Independent School District (the "district"), which you represent, received a request for bid documents submitted by potential vendors in response to a specified invitation to bid. You claim the submitted information is excepted from disclosure under sections 552.101, 552.104, and 552.110 of the Government Code. Moreover, you state release of this information may implicate the proprietary interests of Arizpe Roofing; Bougambilias Construction, L.L.C.; Jearel Adams Construction, Inc.; Owen Roofing; SAMCOR; and United Roofing & Sheetmetal, Inc. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104 of the Government Code protects from required public disclosure "information which, if released, would give advantage to competitors or bidders." 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).

You state the bidding process for the project at issue is not complete because no bids were accepted and the district is re-bidding the project. You assert release of the requested information would give other bidders an unfair advantage because they could use this information in their bids, thereby harming the district's bidding process. Based on your representations and our review, we conclude the district may withhold the submitted information under section 552.104 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/tp

Ref: ID# 390692

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Bougambilias Construction, LLC
Attn: Mr. Miguel A. Cisneros
1352 West Levee Street
Brownsville, Texas 78520
(w/o enclosures)

SAMCOR
Attn: Sam Coronado
554 Paredes, Suite B
Brownsville, Texas 78521
(w/o enclosures)

United Roofing & Sheetmetal, Inc.
Attn: Everardo Escobedo
413 South A Street
Harlingen, Texas 78550
(w/o enclosures)

Jearel Adams Construction, Inc.
Attn: Jearel Adams
1021 North Minnesota Avenue
Brownsville, Texas 78521
(w/o enclosures)

Arizpe Roofing
Attn: Mario Arizpe
1278 Calle San Marcos
San Benito, Texas 78586
(w/o enclosures)

Owen Roofing
Attn: Stuart Owen
2685 North Coria, Suite D-5
Brownsville, Texas 78520
(w/o enclosures)