



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 28, 2010

Mr. Brett Norbraten  
Open Records Attorney  
Texas Department of Aging and Disability Services  
P.O. Box 149030  
Austin, Texas 78714-9030

OR2010-14767

Dear Mr. Norbraten:

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# 395529 (DADS No. 2010SOLEG0128).

The Texas Department of Aging and Disability Services (the "department") received a request for the evaluation materials used during the evaluation of proposals submitted for request for proposals ("RFP") number 539.10.50391. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." *Id.* § 552.104(a). 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 executed. *See* Open Records Decision No. 541 (1990).

You inform us that, although tentative awards for RFP 539.10.50391 have been announced, the competitive bidding process has not yet been completed because negotiations are still pending with the tentative awardees. You state the department believes that public disclosure of bid terms and evaluation matrices, including information on how the various bids for the contract were internally scored by the department, would harm the ongoing competitive bidding process. Based on your representations and our review, we find you have established that release of the information at issue would potentially harm the department's interests in a particular competitive situation. Accordingly, the department may withhold the information you marked under section 552.104.

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](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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/em

Ref: ID# 395529

Enc. Submitted documents

c: Requestor  
(w/o enclosures)