



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2010

Ms. Molly Shortall
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2010-15142

Dear Ms. Shortall:

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#395734.

The City of Arlington (the "city") received a request for the proposals submitted in response to RFP 10-0077, as well as a copy of the awarded contract if applicable. You claim that the submitted information is excepted from disclosure under section 552.104 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Tarrant County Housing Partnership ("TCHP"). Accordingly, you have notified TCHP of the request and of its right to submit arguments to this office as to why its 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 certain circumstances). We have considered the exception 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 inform our office the city is involved in the competitive bidding of administration of a home-buyers assistance program. You state the process is ongoing and a contract has not yet been executed. You explain that the city is still in negotiations with TCHP and that release of the requested information at this stage in the process would harm the city's ability to negotiate a final agreement. Based on your representations, we conclude the city may withhold the submitted under section 552.104 of the Government Code until such time as the contract has been executed and is in effect. *See* Open Records Decision No. 170 at 2 (1977)(release of bids while negotiation of proposed contract is in progress would necessarily result in an advantage to certain bidders at the expense of others and could be detrimental to the public interest in the contract under negotiation).

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 395734

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Donna VanNess
Tarrant County Housing Partnership
603 West Magnolia Avenue, Suite 207
Fort Worth, Texas 76104
(w/o enclosures)