



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 10, 2010

Ms. Debra L. Goetz
Atlas & Hall, L.L.P.
P.O. Box 3725
McAllen, Texas 78502-3725

OR2010-18536

Dear Ms. Goetz:

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# 403247.

The Lower Rio Grande Valley Workforce Development Board, Inc. (the "board"), which you represent, received requests from two requestors for proposals relating to a request for qualifications for an interim workforce system contractor. You claim the requested information is excepted from disclosure under section 552.104 of the Government Code. You also believe these requests for information may implicate the interests of third parties. You state the interested parties were notified of the requests and of their right to submit arguments as to why the requested information should not be released.¹ You have provided correspondence the board received from a representative of C2 Global Professional Services LLC ("C2").² We received correspondence from attorneys for C2 and Unique Staff Leasing III, Ltd. We have considered all of the submitted arguments and reviewed the submitted information.

Section 552.104 of the Government Code excepts from disclosure "information that, if released, would give advantage to a competitor or bidder." Gov't Code § 552.104(a). The

¹See Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (statutory predecessor to Gov't Code § 552.305 permitted governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under certain circumstances).

²We note the other interested third parties are HoustonWorks USA, Neighborhood Centers, Inc., and Southwest Key Workforce Development.

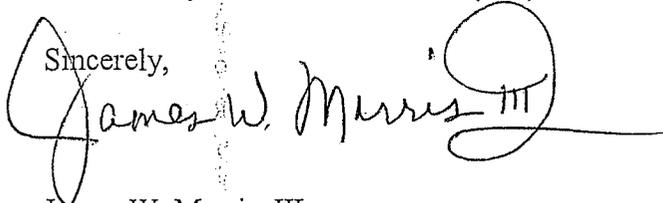
purpose of this exception is to protect a governmental body's interests in competitive situations, typically in the context of competitive bidding. *See* Open Records Decision No. 592 (1991). A governmental body seeking to withhold information under section 552.104 must demonstrate some actual or specific 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). Section 552.104 is generally not applicable to information relating to competitive bidding after a contract has been awarded and executed. *See id.* Nevertheless, this office has determined that in some instances section 552.104 may apply to information relating to an executed contract where the governmental body solicits bids for the same or similar goods or services on a recurring basis. *See id.* at 5.

You indicate the submitted information pertains to a contract that has been awarded and is in effect. You inform us, however, that "[t]he proposals were for an agreement for a limited period of time[.]" You state the board anticipates making similar requests for proposals in the immediate future. You contend that "[r]eleasing the information [at issue] could give the requestor[s] a competitive advantage in the next round of proposals for the same type of services." Based on your representations and our review of the information at issue, we find you have sufficiently demonstrated that release of this information would harm the board's interests in this instance. *See* ORD 592. We therefore conclude the board may withhold the submitted information under section 552.104 of the Government Code. As we are able to make this determination, we need not address the third parties' arguments.

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,

A handwritten signature in cursive script that reads "James W. Morris III". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 403247

Enc: Submitted documents

c: Requestors
(w/o enclosures)

Ms. Tonya B. Webber
Porter Rogers Dahlman & Gordon
800 North Shoreline Suite 800
Corpus Christi, Texas 78401
(w/o enclosures)

Mr. Kenneth M. Odom
Porter Rogers Dahlman & Gordon
2600 Via Fortuna Suite 130
Austin, Texas 78746
(w/o enclosures)

Mr. Chakib Chehadi
C2 Global Professional Services, LLC
5620 Oak Boulevard
Austin, Texas 78735
(w/o enclosures)

HoustonWorks USA
c/o Ms. Debra L. Goetz
Atlas & Hall, L.L.P.
P.O. Box 3725
McAllen, Texas 78502-3725
(w/o enclosures)

Neighborhood Centers Inc.
c/o Ms. Debra L. Goetz
Atlas & Hall, L.L.P.
P.O. Box 3725
McAllen, Texas 78502-3725
(w/o enclosures)

Southwest Key Workforce Development
c/o Ms. Debra L. Goetz
Atlas & Hall, L.L.P.
P.O. Box 3725
McAllen, Texas 78502-3725
(w/o enclosures)