



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 27, 2011

Ms. Michelle L. Villarreal  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2011-09142

Dear Ms. Villarreal:

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# 422411 (LGL-11-521).

The City of Waco (the "city") received a request for information related to "the Informal Buyboard price request." You claim that the requested information is excepted from disclosure under section 552.104 of the Government Code. You also state that release of the requested information may implicate the proprietary interests of third parties. Accordingly, you provide documentation showing that you have notified the third parties of the request and their right to submit arguments to this office.<sup>1</sup> 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 claimed exception 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

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<sup>1</sup>The city notified the following third parties pursuant to section 552.305: CTWP; IKON Office Solutions, Inc.; Johnnie's Office Systems, Inc.; and Kyle Office Products.

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 indicate the bidding process for the project at issue is not complete and a contract has not been awarded. You assert release of the requested information at this stage in the bidding process would give each bidder an unfair advantage and would harm the city's bidding process. Based on your representations, 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 422411

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. David Willie  
CTWP  
3730 Franklin Avenue  
Waco, Texas 76710  
(w/o enclosures)

Mr. John W. Byxbee  
IKON Office Solutions, Inc.  
510 North Valley Mills, Suite 503  
Waco, Texas 76710  
(w/o enclosures)

Ms. Autumn Core  
Johnnie's Office Systems, Inc.  
1618 West Avenue M, Suite D  
Temple, Texas 76504  
(w/o enclosures)

Ms. Tracy Kyle  
Kyle Office Products  
6801 Sanger Avenue #100  
Waco, Texas 76710  
(w/o enclosures)