



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 20, 2011

Mr. James Mu
Assistant General Counsel
TDCJ - Office of the General Counsel
P.O. Box 4004
Huntsville, TX 77342-4004

OR2011-15356

Dear Mr. Mu:

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# 434293.

The Texas Department of Criminal Justice (the "department") received a request for certain information relating to a specified invitation for bids on a project. You claim that 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.

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 purpose of this exception is to protect a governmental body's interests in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 requires a showing of 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 does not protect information relating to competitive bidding situations once a contract has been awarded and is in effect. *See* Open Records Decision Nos. 306 (1982), 184 (1978).

You state the submitted information pertains to the estimated cost of the project and the list of bidders to the specified invitation for bids the department has received concerning its selection of a company for the project. You further state that the bidding process is still open and no contract has been awarded. You contend release of the submitted information would

harm the competitive interests of the department with regard to the ongoing bid process. Based on your representations, we conclude the department may withhold the submitted responsive information at this time under section 552.104(a) of the Government Code. We note the department may no longer withhold this information under section 552.104 once the related contract has been executed and is in effect. *See* Open Records Decision No. 541 at 5 (1990).

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,



Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 434293

Enc. Submitted documents

c: Requestor
(w/o enclosures)