



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 20, 2012

Ms. Tiffany N. Evans
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-00990

Dear Ms. Evans:

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# 443937 (GC No. 19101).

The City of Houston (the "city") received a request for proposals, all information provided by vendors, and score sheets regarding a specified procurement. You claim the submitted information is excepted from disclosure under section 552.104 of the Government Code. In addition, you state release of the submitted information may implicate the proprietary interests of Experis Finance; Horn Solutions, Inc.; Null-Lairson, P.C.; Protiviti; UHY Advisors TX, L.L.C.; and Weaver & Tidwell, L.L.P. ("Weaver"). Accordingly, you state and provide documentation showing you notified these companies of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *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 received comments from Weaver. We have considered the submitted arguments and reviewed the submitted information.

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to a competitor or bidder." Gov't Code § 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

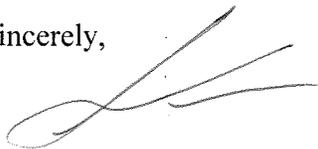
to withhold information in order to obtain more favorable offers. *See* Open Records Decision No. 592 (1991) (discussing statutory predecessor). Section 552.104 protects information from disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. *See* Open Records Decision No. 463 (1987). Generally, section 552.104 does not except information from disclosure after bidding is completed and the contract has been executed. *See* Open Records Decision No. 541 (1990).

You state the submitted information relates to a competitive bidding process for the award of a contract. You state a finalist has been selected, but the contract has not yet been approved by the city council. You assert because the contract has not been executed, “there is a possibility that the Office of the Controller will find it necessary to request additional proposal submissions.” Thus, you argue that release of the submitted information, at this time, could compromise the quality of any additional proposals submitted to the city. Based on your representations and our review, we conclude the city has demonstrated that release of the submitted information would harm its interests in a competitive situation. Accordingly, the city may withhold the submitted information under section 552.104 of the Government Code.¹

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

¹As our ruling is dispositive, we need not address Weaver’s arguments against disclosure.

Ref: ID# 443937

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. John Harris
Experis
1001 Fannin Street, Suite 600
Houston, Texas 77002
(w/o enclosures)

Ms. Dawn Williford
UHY Advisors
12 Greenway Plaza, Suite 200
Houston, Texas 77046
(w/o enclosures)

Mr. Christopher L. Breaux
Null-Lairson, L.L.P.
3411 Richmond Avenue, Suite 500
Houston, Texas 77056
(w/o enclosures)

Ms. Janet Sobey Bubert
Brackett & Ellis, P.C.
For Weaver & Tidwell, L.L.P.
100 Main Street
Fort Worth, Texas 76102-3090
(w/o enclosures)

Mr. Michael Porier
Protiviti
711 Louisiana Street, 12th Floor
Houston, Texas 77002
(w/o enclosures)

Mr. Gary Horn
Horn Solutions
2415 Town Center Drive, Suite 200
Sugar Land, Texas 77478
(w/o enclosures)