



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2012

Ms. Dorothy Palumbo
Interimi City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR2012-05709

Dear Ms. Palumbo:

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# 451192 (ORR: 12-060).

The City of Galveston (the "city") received a request for all emails from a specified time period between the General Land Office ("GLO") and the city regarding the Beach Access Plan, the Seawall Paid Parking Plan, or the Erosion Response Plan. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104 of the Government Code excepts from required public disclosure "information that, 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) (statutory predecessor to section 552.104 designed to protect interests of governmental body in competitive situation, and not interests of private parties submitting information to government). 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 executed. *See* Open Records Decision No. 541 (1990)

You explain the submitted information relates to a request for proposals regarding a Paid Parking Plan along Seawall Boulevard. You state although a finalist has been selected, this proposal is still under review by the GLO and a contract has not been executed. You contend that release of the submitted information at this time would harm the city's bargaining position should the need arise to seek more favorable bids. Based on your representations and our review, we agree the city may withhold the submitted information under section 552.104 of the Government Code until such time as a contract has been executed. As our ruling is dispositive, we do not address your remaining arguments against disclosure.

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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 451192

Enc. Submitted documents

c: Requestor
(w/o enclosures)